IN THE DISTRICT COURT
FOR CLEVELAND COUNTY
STATE OF OKLAHOMA

NO. CJ-96-1499L (H)

THE STATE OF OKLAHOMA, ET AL

VERSUS

R.J. REYNOLDS, ET AL

Videotape deposition of LYNN ROY LAMOTTE, P.O. Box 16069, Baton Rouge, Louisiana 70893, taken at the Marriott Residence Inn, 5522 Corporate Boulevard, Baton Rouge, Louisiana, on Friday, October 9, 1998.

APPEARANCES:

COPY

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Legal Video Specialist

REPORTED BY:

LINDY ROOT
Certified Court Reporter
Registered Professional Reporter

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THE STATE OF OKLAHOMA, ET AL

VS. R.J. REYNOLDS, ET AL

Deposition of LYNN ROY LAMOTTE

Taken on October 9, 1998

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S T I P U L A T I O N

It is stipulated and agreed by and between counsel for the parties hereto that the deposition of the aforementioned witness is hereby being taken under the Louisiana Code of Civil Procedure, Article 1421, et seq., for all purposes, in accordance with law;

That the formalities of reading and signing are specifically not waived;

That the formalities of sealing, certification and filing are specifically waived;

That all objections, save those as to the form of the question and the responsiveness of the answer, are hereby reserved until such time as this deposition, or any part thereof, may be used or sought to be used in evidence.

* * * * *

LINDY ROOT, Certified Court Reporter, in and for the Parish of Orleans, State of Louisiana, officiated in administering the oath to the witness.

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THE VIDEOGRAPHER: 00:00:00

This is the video deposition of Dr. Lynn LaMotte taken in the matter of State of Oklahoma versus R.J. Reynolds. Case #CJ-96-1499L in the District Court for Cleveland County in the State of Oklahoma. 00:04:15 00:04:15 00:04:17 00:04:18 00:04:20 00:04:22 00:04:27 00:04:28

The date is October 9, 1998. The location is Marriott Residence Inn, 5522 Corporate Boulevard, Baton Rouge, Louisiana in the Azalea Room. The elapsed time is 1 minute and 19 seconds. 00:04:30 00:04:31 00:04:33 00:04:36 00:04:38 00:04:40 00:04:42 00:04:44

My name is Michelle Carbonette. I'm a legal video specialist with the firm of Affiliated Court Reporters. 00:04:45 00:04:46 00:04:47 00:04:48

Will counsel introduce themselves, please? 00:04:51 00:04:53

MR. GRUENLOH:

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Mike Gruenloh with Ness, Motley representing the State of Oklahoma. 00:04:55 00:04:55

MR. HALL:

Mark Hall for R.J. Reynolds Tobacco Company. 00:04:57 00:04:58

THE VIDEOGRAPHER:

Will the reporter please introduce herself and swear in the witness?

LYNN ROY LAMOTTE,

after having been first duly sworn by the above-mentioned court reporter, did testify as follows:

EXAMINATION BY MR. GRUENLOH:

Q. Dr. LaMotte, my name is Mike Gruenloh. We met before the deposition. I represent the State of Oklahoma in this case. 00:05:13 00:05:16 00:05:18 00:05:20

Just two things I would ask you before we start, if there's any question that I ask you that you don't understand, let me know and I will rephrase it. If you need a break, let me or your counsel know 00:05:21 00:05:22 00:05:23 00:05:25 00:05:27 00:05:28

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1		and we will take a break.	00:05:30
2		Can you state your full name	00:05:32
3		for the record.	00:05:32
4	A.	Lynn Roy LaMotte.	00:05:33
5	Q.	How do you prefer to be addressed,	00:05:35
6		sir?	00:05:37
7	A.	Dr. LaMotte will be fine.	00:05:38
8	Q.	What is your business address?	00:05:40
9	A.	Department of Experimental	00:05:43
10		Statistics, Louisiana State	00:05:45
11		University, Baton Rouge, Louisiana	00:05:49
12		70803.	00:05:51
13	Q.	What is your home address, sir?	00:05:53
14	A.	I live at [DELETED]	00:05:55
15		]	00:06:00
16	Q.	Can you tell me your Social	00:06:04
17		Security number?	00:06:05
18	A.	I will try.	00:06:07
19		[DELETED]	00:06:09
20	Q.	How old are you, sir?	00:06:13
21	A.	I am 54, I think.	00:06:14
22	Q.	You think?	00:06:19
23	A.	Well, I have to add it up every	00:06:20
24		time. It becomes more of a chore	00:06:23
25		every year. Fifty-four is correct.	00:06:25

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Q. Mark this Exhibit #1, please.
I will hand you what's been marked Exhibit #1. Can you identify that for the record, sir? 00:06:50 00:06:51 00:06:53
A. Yes. This is a copy of my curriculum vitae. 00:06:54 00:06:57
Q. Is that the most current version of your curriculum vitae? 00:06:58 00:07:01
A. I have to check. Actually it seems to be a year or so old. I am looking in publications on Page 2 to see if it's current. I believe there is another paper or two that has appeared or been accepted that is not listed here. 00:07:04 00:07:11 00:07:15 00:07:20 00:07:22 00:07:24 00:07:26
Q. Can you identify how many there are? Are there one, two? 00:07:28 00:07:29
A. I can't say with certainty. It's just that the first paper there says "accepted to appear," and it's appeared. I believe -- I can't recall for sure. There have been one or two others. 00:07:31 00:07:33 00:07:36 00:07:38 00:07:43 00:07:45
Q. Okay. Since 1996, since the date of the first article that appears 00:07:46 00:07:49

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on Page 2 of Exhibit #1, have you published any articles concerning smoking and health or -- have you published any articles concerning smoking and health? 00:07:50 00:07:53 00:07:55 00:07:58 00:08:00

A. No. 00:08:02

Q. Have you published any articles concerning econometrics? 00:08:02 00:08:04

A. No. 00:08:06

Q. When you received your Ph.D., what did you do your dissertation on? 00:08:07 00:08:09

A. My dissertation was in two parts. One part was on variable selection and multiple regression models. The other was on estimation of variance components in mixed linear statistical models. 00:08:12 00:08:14 00:08:16 00:08:19 00:08:22 00:08:25

Q. Who was your Ph.D. sponsor or mentor? 00:08:33 00:08:36

A. R.R. Hocking. 00:08:37

Q. Is R.R. Hocking, is he still teaching or -- 00:08:44 00:08:48

A. He's retired now. 00:08:48

Q. Have you ever designed an econometric model, sir? 00:08:54 00:08:55

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A. Depends on your definition of econometric model, but for purposes of econometrics, I would say no. 00:08:58 00:08:59 00:09:03

Q. Okay. I'm curious. How do you define an econometric model? 00:09:07 00:09:17

A. Well, the reason I stated a small disclaimer is that in my understanding that in econometric modeling methods of statistics are widely used. So I want to distinguish between dealing with statistical models from statistician's point of view and dealing with statistical models as they are used with the objective of investigating some econometric phenomenon. 00:09:19 00:09:21 00:09:25 00:09:26 00:09:29 00:09:32 00:09:34 00:09:38 00:09:41 00:09:44 00:09:47 00:09:49

So I have not dealt with models with that particular objective in mind. I have dealt with statistics and the theory and application of statistical models. And those same models may be applied in the discipline of econometrics. I have not dealt 00:09:51 00:09:52 00:09:54 00:09:58 00:10:00 00:10:03 00:10:05 00:10:08

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1		with the discipline of econometrics	00:10:10
2		directly.	00:10:13
3	Q.	So would it be accurate to say your	00:10:14
4		work has involved the theory of	00:10:17
5		econometrics and not necessarily	00:10:18
6		the application of econometrics?	00:10:20
7	A.	I wouldn't even say the theory of	00:10:29
8		econometrics. I would say this	00:10:29
9		theory and application of	00:10:29
10		statistics.	00:10:29
11	Q.	Have you ever done a damage	00:10:32
12		analysis where you actually	00:10:33
13		provided a number as to what the	00:10:35
14		damages were?	00:10:38
15	A.	No, I have not.	00:10:39
16	Q.	For how many cases not counting	00:10:49
17		this one have you given a	00:10:51
18		deposition or given some testimony?	00:10:53
19	A.	I would have to look at the list.	00:10:55
20	Q.	You don't recall offhand?	00:10:58
21	A.	Not right offhand. Maybe five --	00:11:00
22	Q.	Okay.	00:11:03
23	A.	-- as a ballpark estimate.	00:11:04
24	Q.	We will look at that list in a	00:11:05
25		little bit.	00:11:07

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And in none of those cases did you do a damage analysis where you actually provided a damage number? 00:11:10 00:11:11 00:11:14

A. That's correct. 00:11:16

Q. Dr. LaMotte, when were you first contacted by the tobacco industry? 00:11:29 00:11:32

A. I believe my first contact with representatives of the tobacco industry was -- I have to count back. I believe it was in about August of 1996. 00:11:35 00:11:39 00:11:42 00:11:45 00:11:47

Q. And who contacted you? 00:11:50

A. I was contacted by a person at a firm in Washington, D.C., and I don't remember his name. 00:11:52 00:11:56 00:11:59

Q. Do you remember the law firm? 00:12:00

A. It was -- my impression it was not a law firm. It was an outfit, I believe, called Wash-Tech. 00:12:02 00:12:04 00:12:09

Q. Wash-Tech? 00:12:11

A. I believe that's correct. 00:12:11

Q. W-A-S-H-T-E-C-H? 00:12:13

A. Something like that. That sounds right to me. 00:12:16 00:12:18

Q. Okay. 00:12:19

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But you don't remember the person's name who contacted you? 00:12:20 00:12:21

A. It doesn't occur to me. I certainly would recognize it if I saw it again. I'm sorry. I don't remember that person's name. 00:12:23 00:12:26 00:12:28 00:12:30

Q. Was there a particular case that they contacted you in reference to? 00:12:32 00:12:33

A. As I recall, there was -- it was not a particular case. I don't recall that there was a particular case that they referred to. They did talk about certain models that apparently were involved in at least one and probably more than one case. 00:12:36 00:12:42 00:12:47 00:12:51 00:12:53 00:12:58 00:13:00 00:13:02

Q. What models did they talk about? 00:13:03

A. These were the Leonard Miller models at first. Those were the first ones that I saw. 00:13:05 00:13:11 00:13:12

Q. So at that first meeting back in 1996, the only models you discussed were the Leonard Miller models? 00:13:22 00:13:24 00:13:27

A. I think you asked me if they had contacted me. There was a meeting. 00:13:30 00:13:31

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Q. Was it over the telephone then? 00:13:34
A. I was contacted by telephone. 00:13:36
Q. Okay.
A. Then there was a meeting. I was 00:13:39
asked to come to Washington to meet 00:13:41
with them there. 00:13:43
Q. Who was that meeting with? 00:13:46
A. That meeting was with this person 00:13:47
from Wash-Tech. 00:13:49
Q. Whose name you can't remember? 00:13:52
A. Whose name I can't remember. 00:13:54
And Keith Borman. 00:13:55
Q. And that was in 1996 as well? 00:14:03
A. I believe that was August of '96. 00:14:06
Q. And at that meeting you discussed 00:14:13
Leonard Miller's models? 00:14:14
A. Well, I had not seen Leonard 00:14:16
Miller's models before. They 00:14:18
provided me some description of 00:14:21
those models, and we discussed the 00:14:23
descriptions that were put before 00:14:26
me at that point. So I certainly 00:14:28
wasn't in a position to discuss 00:14:30
them in any sort of depth at that 00:14:33
point. 00:14:35

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Q. Was there a follow-up meeting to that meeting? 00:14:37 00:14:39

A. Not in Washington. I think the next time I met with anyone was probably -- no. This is going to get kind of vague. Because I don't remember all the dates. 00:14:42 00:14:47 00:14:50 00:14:54 00:14:56

Q. I understand. 00:14:57

A. It was sometime early fall. Perhaps October following that August of '96. 00:14:58 00:15:01 00:15:03

Q. That was the follow-up meeting with Mr. Borman and the other gentleman from Wash-Tech? 00:15:05 00:15:07 00:15:11

A. No, I didn't meet with the person from Wash-Tech again. It was -- I had the impression. I don't know this is correct. I had the impression that Wash-Tech as one of its functions locates experts, and that they initiated the contact with me in order to see, I suppose, whether there was mutual interest in getting me involved in some of these questions. And then in the 00:15:12 00:15:14 00:15:16 00:15:17 00:15:19 00:15:22 00:15:26 00:15:28 00:15:33 00:15:36 00:15:39

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later meeting in October, I met with Keith Borman and Bill Thompson. 00:15:43 00:15:46 00:15:52

Q. What was the substance of that meeting? 00:15:53 00:15:55

A. If I recall the substance of that meeting was that they were asking me to look into questions related to these models, the Leonard Miller models at that point. 00:15:56 00:15:59 00:16:03 00:16:07 00:16:10

Q. But, again, only the Leonard Miller model? 00:16:11 00:16:13

A. To the best of my recollection, that's correct. 00:16:14 00:16:15

Q. Okay. How many meetings in total did you have concerning the Leonard Miller models? 00:16:16 00:16:22 00:16:24

A. I'm trying to think. Perhaps that one in October. There may have been a subsequent one. That was about the extent of my examination of the Leonard Miller models. 00:16:28 00:16:46 00:16:46 00:16:49 00:16:51

Q. And at those meetings Mr. Borman or Mr. Thompson provided you those models. Is that correct? 00:16:56 00:16:59 00:17:01

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A. I'm not sure what you mean by provided me those models. 00:17:02 00:17:05
Q. Did they provide you with some written report of Leonard Miller to look at? 00:17:07 00:17:10 00:17:11
A. Yes, they did. 00:17:12
Q. Was the report of Leonard Miller that you looked at prepared for some case? 00:17:13 00:17:15 00:17:17
A. There -- I'm not certain of that. There was one -- actually there were several. They seemed to be documents sort of written for publication. They didn't look like reports in cases to me. 00:17:20 00:17:22 00:17:25 00:17:29 00:17:34 00:17:36
Q. You don't remember exactly what those documents are though that you reviewed? 00:17:39 00:17:41 00:17:42
A. Not with certainty. They were descriptions of the models, the approach, the database used, that sort of thing. 00:17:43 00:17:45 00:17:46 00:17:53
Q. Okay. At those meetings, at any of those three meetings, did you provide an opinion to Mr. Borman or 00:17:54 00:17:59 00:18:01

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Mr. Thompson concerning the models of Leonard Miller? 00:18:04 00:18:06

A. If they asked. I wasn't at that point prepared to provide a well-informed opinion. I had some impressions, and I'm sure I communicated those impressions. They were kind of general overall impressions of the sort of approach being taken in those models. 00:18:07 00:18:09 00:18:11 00:18:14 00:18:18 00:18:21 00:18:22 00:18:25

Q. Do you recall what your impressions were? 00:18:27 00:18:28

A. Not with any sort of precision. 00:18:31

Q. Did you ever provide a written opinion on the models of Leonard Miller? 00:18:38 00:18:39 00:18:41

A. No, I did not. 00:18:42

Q. Who are the defendants in this case? Do you know? 00:18:47 00:18:49

A. I'm not sure I could name all of the defendants in this case. I don't know with certainty. 00:18:50 00:18:52 00:18:57

Q. Have you ever reviewed the petition in this case, the complaint? 00:18:59 00:19:01

A. I don't believe that I have. 00:19:03

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Q. Do you know who the plaintiff is in this case? 00:19:06 00:19:07
A. The plaintiff, I believe, is the State of Oklahoma. That's my impression. 00:19:08 00:19:09 00:19:11
Q. Where did you get that impression from? 00:19:18 00:19:19
A. Perhaps from some documents that I have seen. I'm not sure exactly. And it may have come in this case -- it may have been mentioned in the letter that I received asking me to work on questions related to this particular case. I don't remember that verbatim. 00:19:21 00:19:23 00:19:26 00:19:30 00:19:34 00:19:36 00:19:39 00:19:44
Q. Had you ever done any work for the tobacco industry prior to that first meeting in 1996? 00:19:49 00:19:51 00:19:54
A. No. 00:19:56
Q. Dr. LaMotte, who do you send your bill to, what law firm? 00:20:01 00:20:03
A. At this point I send it to Shook Hardy. 00:20:05 00:20:07
Q. And what do you bill per hour, sir? 00:20:12
A. $175. 00:20:15

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Q. Is that the same for testimony as for writing a report? 00:20:20 00:20:21
A. In this case it is. 00:20:23
Q. I'm not limiting this question only to this case. How many -- how much have you billed total for tobacco related services to date? 00:20:29 00:20:32 00:20:34 00:20:41
A. So not limited to this case? 00:20:43
Q. Correct. 00:20:45
A. Extending back to August, '96 then? 00:20:46
Q. Correct, sir. 00:20:50
A. I would guess around $120,000. 00:20:51
Q. So since August of 1996, you have billed around 120,000? 00:20:57 00:20:59
A. That's approximately correct. 00:21:02
Q. If we limit it to only your work in the Oklahoma case, can you give me a number there? 00:21:04 00:21:06 00:21:08
A. I think that's approximately 80,000 at this point. 00:21:08 00:21:12
Q. Do you smoke? 00:21:30
A. No. 00:21:31
Q. Do you have any children? 00:21:33
A. Yes. 00:21:34
Q. Do they smoke? 00:21:35

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A. Not to my knowledge. 00:21:37
Q. Do you have an opinion professional or otherwise as to whether environmental tobacco smoke causes disease? 00:21:45 00:21:48 00:21:49 00:21:52
A. I would say I don't have an opinion. 00:21:54 00:21:55
Q. One way or the other? 00:21:56
A. That's correct. 00:21:58
Q. You form no opinion on that? 00:21:58
A. Certainly no professional or informed or scientific opinion. I haven't looked into that. 00:22:01 00:22:04 00:22:06
Q. All right. This is going to be a little bit tedious, but I want to go through and find out which areas you're going to offer testimony in this case. Just bear with me as we go through these. 00:22:13 00:22:16 00:22:18 00:22:20 00:22:22 00:22:23
Do you know what the term "expert" means? 00:22:24 00:22:26
A. I know it has several different definitions so -- 00:22:27 00:22:31
Q. How would you define the term expert? 00:22:32 00:22:33

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A. -- I would be reluctant to attempt a definition. As I said, I think there are probably several. One that you probably heard is an expert is a person who knows more and more about less and less. I don't think that's the definition you're seeking. 00:22:34 00:22:37 00:22:38 00:22:40 00:22:42 00:22:45 00:22:47 00:22:48

Q. Well, when the defendants in this case came and asked you to appear as an expert on their behalf, what did you understand the term to mean? 00:22:50 00:22:54 00:22:57 00:22:59 00:23:00

A. I can't be certain that that word was actually used. 00:23:02 00:23:05

Q. Okay. 00:23:14

A. I understand that the general term for persons doing what I do in this situation is called an expert. 00:23:14 00:23:14 00:23:16

Q. So you don't know what the word expert means? 00:23:19 00:23:20

A. I didn't say that. I said it has -- it's my impression that it has different definitions and different circumstances. 00:23:21 00:23:23 00:23:26 00:23:27

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Q. Which definition would you apply to your work in this case? 00:23:37 00:23:39
A. Presumably my knowledge and experience in the discipline of statistics provides some qualification for me to consider questions arising in this particular case. 00:23:45 00:23:50 00:23:52 00:23:57 00:23:59 00:24:01
Q. Well, tell me what it is that qualifies you to provide an expert opinion on statistics. 00:24:11 00:24:13 00:24:14
A. My education, my experience, my research. 00:24:17 00:24:20
Q. I'm going to ask you about several fields, and I would like you to tell me whether you consider yourself an expert in those fields according to the background you just gave me, education, experience, and research. 00:24:41 00:24:44 00:24:47 00:24:48 00:24:50 00:24:51 00:24:53
Do you consider yourself an expert in medicine? 00:24:55 00:24:56
A. No. 00:24:57
Q. Do you intend to offer an opinion at trial in the field of medicine? 00:24:59 00:25:00

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A. No. 00:25:02
Q. Do you consider yourself an expert in biology? 00:25:03
A. No. 00:25:06
Q. Do you intend to offer an opinion at trial in the field of biology? 00:25:06
A. No. 00:25:10
Q. Do you consider yourself an expert in toxicology? 00:25:10
A. No. 00:25:13
Q. Do you intend to offer an opinion at trial in the field of toxicology? 00:25:13
A. No. 00:25:17
Q. Do you consider yourself an expert in pharmacology? 00:25:18
A. No. 00:25:21
Q. Do you intend to offer an opinion at trial in the field of pharmacology? 00:25:21
A. No. 00:25:26
Q. This is lot harder for me than it is for you. 00:25:27
Do you consider yourself an expert in survey design? 00:25:29

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A. No. I don't think so. 00:25:34
Q. Do you consider yourself an expert in the field of econometrics? 00:25:38
A. No. 00:25:40
Q. Do you consider yourself an expert in the field of epidemiology? 00:25:43
A. No. 00:25:45
Q. Do you consider yourself an expert in the field of psychology? 00:25:47
A. No. 00:25:54
Q. Do you consider yourself an expert in the field of law? 00:25:55
A. No. 00:25:57
Q. Do you consider yourself an expert in the field of economics? 00:26:00
A. No. 00:26:01
Q. Do you consider yourself an expert in the field of statistics? 00:26:03
A. In some aspects of statistics, yes. 00:26:06
Q. Tell me what aspects, sir. 00:26:08
A. Particularly in the area of linear statistical models, regression analysis, and closely related areas. 00:26:10
Q. You made the distinction there when 00:26:16
00:26:18
00:26:20
00:26:22
00:26:25
00:26:27
00:26:33
00:26:36
00:26:39

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you said linear models as opposed 00:26:41
to nonlinear models? 00:26:43
A. Yes. 00:26:45
Q. Do you consider yourself an expert 00:26:49
in the field of behavioral science? 00:26:51
A. No. 00:26:54
Q. Let's go back to statistics for a 00:26:55
second. Linear models, regression 00:26:57
analysis. Was there anything else? 00:26:59
Any other subfield that you 00:27:02
mentioned in statistics? 00:27:04
A. Well, those are all closely 00:27:06
related. 00:27:07
Q. Those two? 00:27:08
A. Those two. Regression analysis is 00:27:09
really a subfield of linear models. 00:27:10
Within linear models, I am 00:27:15
including both mixed and fixed 00:27:18
linear models as they are often 00:27:22
called. 00:27:28
Q. Can you tell me what you mean by 00:27:29
mixed and fixed? 00:27:31
A. In a fixed linear model, the idea 00:27:32
is that conditions that 00:27:39
are -- conditions and effects are 00:27:41

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being modeled on a response are fixed. They are not sampled from some population. They are fixed characteristics. 00:27:46 00:27:48 00:27:51 00:27:53

In a mixed model, some levels of some factors may correspond to -- for example, to a sampling model and so the levels of the factors involved may themselves be random. That's a mixed model. 00:27:55 00:27:58 00:28:01 00:28:03 00:28:05 00:28:08

Q. And those are both types of linear models? 00:28:12 00:28:14

A. Those are both types of linear models, that's correct. 00:28:15 00:28:17

Q. If you had to characterize Dr. Harrison's model as reported in this case, would you call it a mixed model or a fixed model? 00:28:27 00:28:31 00:28:33 00:28:35

A. Actually there are some 17 plus models. So the basic approach -- in the basic approach no allowance is made in those models for any random terms except the error term. So in each case those models are fixed models. 00:28:38 00:28:42 00:28:45 00:28:48 00:28:50 00:28:53 00:28:55

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Q. Do you consider those models to be linear models? 00:29:04 00:29:06

A. Yes. Those are basically linear models. The probit models are a little different, but much of the theory and methods of linear models carry over to probit models as well. Technically they are not linear models. 00:29:07 00:29:10 00:29:15 00:29:18 00:29:25 00:29:27 00:29:29

Q. Okay. We will get to that in a little bit. It's still a little early for that. 00:29:30 00:29:32 00:29:34

A. Okay.

Q. Do you consider yourself an expert in the field of marketing? 00:29:35 00:29:37

A. No. 00:29:43

Q. Please mark that for me.

The court reporter just handed you what's been marked as Exhibit #2 to the deposition. Can you identify that for me, sir? 00:30:21 00:30:22 00:30:24 00:30:26

A. Yes. This is a list entitled, "Documents Relied Upon By Me." 00:30:27 00:30:29

Q. Did you prepare that list? 00:30:34

A. I didn't actually type the list. I 00:30:37

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believe that I went over the list of items in there with Mark Hall, I think. 00:30:43 00:30:48 00:30:57

Q. So Mark Hall prepared the list? 00:30:59

A. I can't be certain of that. 00:31:01

Q. You don't know who prepared that list? 00:31:03 00:31:05

A. Not with absolute certainty. But it came from lists that I supplied, and I verified items on this list. 00:31:06 00:31:08 00:31:14

Q. When you say that it came from lists that you supplied, what lists are you referring to? 00:31:19 00:31:20 00:31:23

A. I believe in my report, there's a list of references somewhere in there. Page 16 of 29. And that -- I haven't checked to be sure, but that probably lists most of these. Probably more than these. 00:31:24 00:31:27 00:31:36 00:31:41 00:31:43 00:31:45 00:31:47

Q. That's the list that you were referring to when you just -- 00:31:58 00:31:59

A. Yes. 00:32:01

Q. To the extent that the list on Exhibit #2 has been pared down from 00:32:12 00:32:17

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the list on Page 16 of your report, who is responsible for deciding which of those articles, books, or reliance materials would be taken off that list? 00:32:20 00:32:22 00:32:25 00:32:28 00:32:30

A. I would say that I am responsible for that. 00:32:31 00:32:32

Q. You sat down with Mr. Hall and said, take this off, take this off? 00:32:34 00:32:37

A. Well, I think this was done by a telephone conversation. 00:32:39 00:32:40

Q. Looking at the list on Exhibit #2, can you tell me are there any items on that list which you have not relied upon? For instance, all the documents on that list, you have relied upon, correct? 00:32:55 00:32:57 00:33:02 00:33:06 00:33:09 00:33:11

A. I guess I need a definition of "relied upon." In other words, as I would take a working definition, relied upon would mean that without these documents my opinions would have been different. 00:33:13 00:33:15 00:33:17 00:33:22 00:33:25 00:33:29

Q. Well, what did you mean by relied upon when you helped to prepare 00:33:32 00:33:36

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this list which says "Documents Relied Upon by Dr. LaMotte"? 00:33:38 00:33:40
A. That in writing my report and forming my opinions, I needed information from these -- from the items listed here. 00:33:43 00:33:44 00:33:46 00:33:48
Q. Are there any documents which are not on this list which you have relied upon in any way to form the basis of your opinion? 00:33:53 00:33:55 00:33:56 00:34:00
A. In the same sense, not that I know of. 00:34:00 00:34:02
Q. So this list contains all the documents which you have relied upon to date to form your opinion? 00:34:11 00:34:13 00:34:14
A. To the best of my knowledge, that's correct. 00:34:17 00:34:19
Q. Do you intend to supplement this list between now and the time of trial? 00:34:20 00:34:21 00:34:23
A. I don't have any intention to do so. 00:34:23 00:34:26
Q. You have ten items listed on Exhibit #2. I would like to go through them one by one, and if you 00:34:37 00:34:39 00:34:41

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tell me generally how you relied upon each of them. Can we do that, sir? 00:34:43 00:34:45 00:34:48

A. Sure.

Q. Look at the first one authored by William Greene. Can you tell me how you relied upon that particular item? 00:34:48 00:34:52 00:34:54 00:34:56

A. Yes. That's a user's manual for a package -- computer package called LIMDEP. LIMDEP is one of the packages that Professor Harrison used in his model. I ran his models using LIMDEP. I am not familiar with LIMDEP, and so the only way I can run it is to sit with the manual open on my lap and follow directions. 00:34:57 00:35:00 00:35:05 00:35:08 00:35:11 00:35:15 00:35:19 00:35:22 00:35:23 00:35:26

Q. Okay. Let's go to the second item. SAS Institute, Inc. Can you tell me how you relied upon that? 00:35:32 00:35:35 00:35:39

A. Certainly. The package that I used, the statistical computing package that I used for virtually all of my calculations was a 00:35:41 00:35:44 00:35:46 00:35:51

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package called SAS. It's a large complicated comprehensive statistical computing package. The item that you're referring to is one of many manuals related to using SAS. 00:35:52 00:35:56 00:35:58 00:36:04 00:36:06 00:36:11

Q. Okay. Let's look at the third item. Can you tell me how you relied upon that item? 00:36:12 00:36:15 00:36:18

A. In the same way. This is another SAS manual. The SAS manuals, a complete set would fill several shelves. 00:36:20 00:36:22 00:36:26 00:36:27

Q. Would your response be the same for the next four items that each begin with SAS? 00:36:28 00:36:31 00:36:33

A. Yes. As a general response, yes. Each of these manuals refers to a different aspect, a different part of the SAS system. 00:36:34 00:36:36 00:36:39 00:36:41

Q. Let's skip down then to the item authored by W. Edwards and M. Berlin. Can you tell me how you relied upon that document? 00:36:45 00:36:50 00:36:53 00:36:55

A. Yes. This is the basic description 00:36:58

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of the data collection methods and the questionnaires and other items used in the National Medical Expenditures Survey. 00:37:00 00:37:02 00:37:05 00:37:08

Q. How have you relied upon that? 00:37:12

A. That has the basic information necessary for using data from the National Medical Expenditures Survey which was the main data used by Professor Harrison in building his models. 00:37:23 00:37:23 00:37:23 00:37:23 00:37:26 00:37:29

Q. Okay. How about the next item, how have you relied upon that? 00:37:33 00:37:36

A. The next item is the CD supplied by the Inter-university Consortium for Political and Social Research at the University of Michigan. That contains the data from the National Medical Expenditures Survey, contains numerous files of data from that survey. That is the primary source for the data from NMES as it's often called. 00:37:38 00:37:41 00:37:45 00:37:46 00:37:48 00:37:50 00:37:52 00:37:55 00:37:58 00:38:02

Q. Prior to looking at the NMES survey for your work in this case, had you 00:38:07 00:38:10

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ever looked at the NMES survey before? 00:38:12 00:38:15

A. Yes, I had. 00:38:15

Q. When was that? 00:38:16

A. I looked at that from the very beginning, from my first contact with attorneys dealing with cases involving the tobacco industry. 00:38:17 00:38:20 00:38:24 00:38:29

Q. So back in August of 1996 is when you first looked at the NMES survey? 00:38:32 00:38:34 00:38:37

A. I didn't actually see it at that point. That's the first I heard of it. 00:38:38 00:38:39 00:38:41

Q. When did you first actually see the survey? 00:38:41 00:38:43

A. I ordered it from this ICPS at University of Michigan in probably early fall of 1996. 00:38:44 00:38:46 00:38:51

Q. Did you order it in preparation for some analysis that you were doing or were you just curious? Why did you order it? 00:39:06 00:39:08 00:39:09 00:39:11

A. Oh, I ordered it in connection with the work that I was doing at that 00:39:12 00:39:14

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time on -- at that time it wasn't 00:39:18
on a particular case but I ordered 00:39:19
it in order to see the source data 00:39:22
for the Leonard Miller models. 00:39:25
Q. Prior to August of 1996, had you 00:39:33
ever done any analysis of the NMES 00:39:35
data or looked at the NMES survey? 00:39:39
A. No. I think it's safe to say I had 00:39:42
not heard of the NMES survey before 00:39:44
that time. 00:39:47
Q. All right. Aside from using the 00:39:56
NMES data to evaluate the work that 00:39:57
Leonard Miller did back in 1996, 00:40:00
have you used that NMES data for 00:40:03
any purpose other than your work 00:40:07
here in Oklahoma? 00:40:09
A. Yes. I used that -- I was involved 00:40:10
in the Texas case, and I used it in 00:40:12
that case. 00:40:15
Q. Tell me how you used it in that 00:40:17
case. 00:40:19
A. I used it in that case to examine 00:40:19
statistical models that had been 00:40:23
devised by Vincent Miller. 00:40:27
Q. Let's go to the last item on 00:40:57

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Exhibit #2 under the heading of "Testimony." It's the deposition of Glen Harrison. You reviewed that deposition? 00:40:59 00:41:01 00:41:06 00:41:10

A. Yes, I did. 00:41:11

Q. Who provided you with that deposition? 00:41:12 00:41:14

A. I'm not sure exactly from whom it came. I don't recall exactly the source. 00:41:15 00:41:17 00:41:22

Q. Was it someone at a law firm? 00:41:29

A. Yes. And it probably was Mark Hall. I'm not absolutely certain that's who actually sent it to me. 00:41:31 00:41:34 00:41:37

Q. When did you receive that deposition transcript? 00:41:40 00:41:41

A. I'm not sure. I'm not certain. As I see here the date of the deposition was June 24 through 26. So I would say early July, but I'm not sure. 00:41:44 00:41:46 00:41:48 00:41:53 00:41:55

Q. Okay. Have you reviewed any other deposition transcripts aside from the deposition transcript of Dr. Harrison? 00:41:57 00:42:06 00:42:07 00:42:09

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A. You mean ever? Or with respect to this particular case? 00:42:11 00:42:15

Q. I apologize. With respect to this particular case. 00:42:16 00:42:18

A. Yes. In fact, I reviewed the deposition of Alexander Holmes. 00:42:19 00:42:23

Q. His Oklahoma deposition? 00:42:30

A. Yes, that's correct. 00:42:32

Q. And who did you receive that transcript from? 00:42:40 00:42:41

A. I actually -- I believe that was sent to me directly from someone in Kansas City. Sorry. Oklahoma City. Oklahoma City. 00:42:42 00:42:46 00:42:48 00:42:52

Q. You don't remember who then? 00:42:55

A. I'm sorry. It was a firm that -- the name of which I was not familiar with. 00:42:56 00:42:58 00:43:00

Q. Let's go back to your review of Dr. Harrison's transcript. Were you given any specific instructions with regard to your review of that transcript? 00:43:05 00:43:07 00:43:09 00:43:11 00:43:12

A. No. 00:43:13

Q. So you just received the transcript 00:43:15

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1		in the mail?	00:43:17
2	A.	Sure.	00:43:18
3	Q.	No instructions?	00:43:19
4	A.	But that would be -- I didn't find	00:43:21
5		that unusual at all. Sure.	00:43:23
6	Q.	What about the deposition	00:43:30
7		transcript of Dr. Holmes? Did you	00:43:32
8		receive any instructions with	00:43:34
9		regard to your review of that	00:43:36
10		transcript?	00:43:37
11	A.	No. No instructions.	00:43:38
12	Q.	Aside from the deposition	00:43:40
13		transcripts of Dr. Holmes and Dr.	00:43:41
14		Harrison, have you reviewed any	00:43:44
15		other deposition transcripts in	00:43:46
16		preparation for your testimony in	00:43:49
17		this case?	00:43:50
18	A.	Transcripts of depositions having	00:43:51
19		to do with the Oklahoma case?	00:43:53
20	Q.	I'm asking you any deposition	00:43:55
21		transcripts in preparation for your	00:44:05
22		testimony in this case.	00:44:05
23	A.	I went back and reviewed some parts	00:44:05
24		of my own deposition in the Texas	00:44:05
25		case.	00:44:08

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Q. What parts did you review? 00:44:10
A. As much of it as I could stand. 00:44:13
Q. Have you reviewed any other deposition transcripts in preparation for your testimony in this case? 00:44:27 00:44:28 00:44:29 00:44:31
A. I'm trying to think. I don't think I have. 00:44:31 00:44:33
Q. Have you reviewed any expert reports in preparation for your testimony in this case? 00:44:35 00:44:37 00:44:38
A. I have received copies of quite a number of expert reports, and I have glanced over -- I think I glanced through all of them. I have read through only one or maybe two. I'm not sure. But one I'm pretty sure I read all the way through. Others I just didn't find or take the time to go through all of them in any detail. 00:44:39 00:44:44 00:44:47 00:44:50 00:44:53 00:45:02 00:45:05 00:45:07 00:45:10 00:45:13
Q. Can you list for me which expert reports you believe you received and reviewed? 00:45:14 00:45:17 00:45:18
A. Well, they are in a bound volume, 00:45:19

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and I could try to recall the names -- 00:45:23 00:45:26

Q. If you would. 00:45:27

A. Sure. 00:45:28

I'm debating which is easier to try to go through it from the first. I don't think I can do that. 00:45:33 00:45:35 00:45:37 00:45:38

There's my deposition is in there -- I mean my report is in there. Rubin's report is in there, Professor Rubin's report. Dr. Matiowitz's report is in there. Mr. Ripps's report is in there. Mr. Tonn's report, Professor Milliken. 00:45:41 00:45:43 00:45:45 00:45:48 00:45:53 00:45:58 00:46:03 00:46:08

I'm sure I will leave out somebody. Professor McClave. Dr. -- or Ms. Godbout I believe is how it's pronounced. Dr. Holmes's report is in there. Dr. Viscusi. 00:46:11 00:46:13 00:46:29 00:46:34 00:46:42

I'm sorry. I don't remember anymore than that. 00:47:07 00:47:08

Q. Dr. Wecker? 00:47:10

A. Wecker's, yes. I thought of that 00:47:12

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at first. Then I thought, no, that's the last one in there. I will get to that when I come to it. 00:47:17 00:47:17 00:47:19

Q. Well, you reviewed Dr. Harrison's report, correct? 00:47:24 00:47:27

A. Certainly. I have reviewed three reports of Dr. Harrison's. 00:47:28 00:47:31

Q. Are there any other experts whose reports you reviewed? 00:47:36 00:47:39

A. That's all. And in making the list, I was listing only those whose names I recalled appearing there. As I said, I read through one, and I read parts of several others. 00:47:40 00:47:42 00:47:44 00:47:46 00:47:48 00:47:50

Q. Let me just make sure then. 00:47:51

Are there any other expert reports which have been filed on behalf of the plaintiffs in this case that you have reviewed in preparation for your testimony here? 00:47:53 00:47:56 00:47:59 00:48:00 00:48:04 00:48:05

A. Not that I can recall. 00:48:09

Q. Do you intend to offer an opinion regarding any of the other state's 00:48:12 00:48:15

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1		experts aside from Dr. Harrison?	00:48:18
2	A.	So far as I know I haven't seen	00:48:22
3		anything from any other state	00:48:24
4		experts, but I certainly am not	00:48:28
5		prepared to offer any opinion on	00:48:32
6		anyone else's report.	00:48:33
7	Q.	Do you know who the other state's	00:48:37
8		experts are on damages?	00:48:39
9	A.	I do not know.	00:48:42
10	Q.	So Dr. Harrison is the only one	00:48:44
11		that you're aware of?	00:48:46
12	A.	I'm vaguely aware of another but I	00:48:49
13		don't think I have seen the report	00:48:57
14		and I don't even remember the name.	00:48:58
15	Q.	Dr. Harrison is the only state's	00:49:10
16		expert in this case that you're	00:49:13
17		aware of?	00:49:14
18	A.	By name, for sure. Yes.	00:49:15
19	Q.	You said you received all of these	00:49:20
20		other expert reports in a bound	00:49:23
21		volume. Is that correct?	00:49:26
22	A.	That's correct.	00:49:28
23	Q.	When did you receive that?	00:49:28
24	A.	Oh, I would say mid August.	00:49:32
25		Second, third week of August.	00:49:39

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Again, my recollection of dates is apt to be fuzzy. 00:49:42 00:49:46

Q. But your best recollection is mid August? 00:49:50 00:49:52

A. Something like that. The only way I could tag it would be by whether classes had started or not, and I just don't recall. My guess -- it could be that classes had started and that takes a lot of time. That may be why I didn't spend so much reading it. So it's just circumstantial. It's just guessing. 00:49:52 00:49:54 00:49:59 00:50:02 00:50:04 00:50:06 00:50:08 00:50:11 00:50:13 00:50:13

Q. Were you asked to go through each of the reports by anyone? 00:50:16 00:50:18

A. As far as I recall, nobody ever said anything to me in -- orally or in writing about what to do with it. I assumed it was simply sent to me for my information. 00:50:21 00:50:23 00:50:28 00:50:30 00:50:32

Q. Did you have any telephone conversations or meetings concerning those reports? 00:50:36 00:50:37 00:50:39

A. Not that I recall, no. 00:50:40

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Q. Did you ever provide any written analysis or opinions concerning those reports? 00:50:45 00:50:49 00:50:50

A. Oh, no. 00:50:51

Q. Did you ever make any notes concerning your impressions of those reports? 00:50:52 00:50:54 00:50:55

A. No, I don't think so. I haven't spent much time with them. 00:50:56 00:50:59

Q. Have you received or written any letters to attorneys or from attorneys regarding your testimony in this case? 00:51:11 00:51:14 00:51:16 00:51:18

A. Not that I recall. 00:51:21

Q. Have you received or written any letters to or from consultants concerning your testimony in this case? 00:51:29 00:51:31 00:51:34 00:51:35

A. No. 00:51:36

Q. Have you had any correspondence with any of the other defense experts on damages in this case? 00:51:44 00:51:44 00:51:44

A. No. 00:51:46

Q. Have you had any telephone conversations with any of the other 00:51:49 00:51:50

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defense experts on damages in this case? 00:51:52 00:51:55

A. I had -- I had a telephone -- I had a telephone conversation -- I'm not sure that I would say it had to do with damages. But I had the telephone conversation with George Milliken. 00:51:56 00:52:03 00:52:05 00:52:07 00:52:09 00:52:11

Q. When was that? 00:52:14

A. Gosh. I knew you were going to ask that. 00:52:16 00:52:18

Probably late August or early September. 00:52:22 00:52:24

Q. And there was only one telephone conversation with Dr. Milliken? 00:52:30 00:52:32

A. Yes. I'm really not sure of the date that I gave you on that. I can't place it. But we did have a brief conversation. 00:52:34 00:52:37 00:52:40 00:52:43

Q. Was there anyone else who participated in that telephone conversation? 00:52:46 00:52:49 00:52:50

A. No. 00:52:51

Q. And what was the substance of that telephone conversation? 00:52:51 00:52:53

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A. If I recall correctly, it had to do with an interpretation of R squared in regression models. 00:52:55 00:53:00 00:53:03

Q. What specifically did you discuss concerning R squared? 00:53:19 00:53:21

A. As I recall, George -- I have known George for a long time. Entirely separate from this case. 00:53:22 00:53:27 00:53:30

George said he had a thought of potential interpretation of R squared as it shows up in Professor Harrison's models, and that he wanted to run that by me and see what I thought about it. 00:53:33 00:53:39 00:53:43 00:53:48 00:53:50 00:53:52

Q. What do you mean when you say interpretation of R squared? 00:53:54 00:53:56

A. How the quantitative value of R squared for one of these models might be interpreted relevant to the use of these models. 00:53:59 00:54:04 00:54:07 00:54:10

Q. And what was his opinion concerning the interpretation of R squared as it relates to Dr. Harrison's model? 00:54:25 00:54:27 00:54:29

A. I don't remember the specifics of his interpretation. It somehow was 00:54:33 00:54:37

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a connection between magnitude of R squared as connected ultimately to dollar values of damages arising from the use of these models to compute those damages. 00:54:42 00:54:48 00:54:52 00:54:56 00:54:58

Q. So Dr. Milliken was doing an R squared analysis on Dr. Harrison's model. Is that correct? 00:55:03 00:55:06 00:55:09

A. I wouldn't -- I'm not sure that there's any such thing as an R squared analysis. You know, R squared is such a widely used and misused statistic in multiple regression analysis that it's going to pop up every time you do a regression analysis. 00:55:10 00:55:13 00:55:16 00:55:17 00:55:19 00:55:21 00:55:24 00:55:25

Q. What term would you use as opposed to R squared analysis? 00:55:30 00:55:32

A. Well, I'm sorry. I didn't mean to jump on you. 00:55:35 00:55:36

Q. That's fine. 00:55:37

A. It's simply in looking at the characteristics of a regression model, R squared is one of these sort of gross overall summary 00:55:38 00:55:41 00:55:43 00:55:45

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1		statistics that any analyst looks	00:55:51
2		at automatically to see whether the	00:55:54
3		model is any good. It arises quite	00:55:56
4		naturally. It's so ubiquitous in	00:56:02
5		regression models and	00:56:08
6		interpretations of regression	00:56:10
7		models. It's sort of always there.	00:56:12
8		That's why R squared analysis	00:56:14
9		sounded a little bit too formal and	00:56:17
10		structured.	00:56:20
11	Q.	Okay. Would it be more appropriate	00:56:21
12		to say that Dr. Milliken was	00:56:23
13		applying R squared to Dr.	00:56:25
14		Harrison's model?	00:56:28
15	A.	For sure.	00:56:29
16	Q.	That's what he was doing, correct?	00:56:31
17	A.	The question had -- I would say	00:56:33
18		correct as I understand it. The	00:56:35
19		question had to do with	00:56:37
20		interpretation -- R squared is	00:56:38
21		simply a proportion. In abstract	00:56:40
22		and isolation, it really doesn't	00:56:46
23		have much consequence. When a	00:56:49
24		model is used in a situation where	00:56:54
25		the outcome of that model has the	00:56:57

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consequence such as dollars, then the question is what interpretation of R squared back here in this model is appropriate for establishing some sort of meaning about the results that come out of that model in terms of real practical meaning. In terms of dollars, for example. I think that was the idea. 00:57:00 00:57:02 00:57:05 00:57:07 00:57:11 00:57:12 00:57:16 00:57:17 00:57:20 00:57:22

Q. Okay. You, in fact, applied R squared to Dr. Harrison's analysis in this case, did you not? 00:57:25 00:57:27 00:57:30

A. I certainly looked at R squared. 00:57:31

Q. Did you look at R squared in the Texas case? 00:57:35 00:57:37

A. I'm sure I did. I don't recall specifics, but it's something that one looks at automatically. 00:57:38 00:57:40 00:57:43

Q. Well, let me ask the question this way. Prior to your work in this case concerning Dr. Harrison's model, had you ever applied R squared to a multiple regression analysis? 00:57:45 00:57:48 00:57:50 00:57:52 00:57:55 00:57:57

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A. I guess I would have to answer that every time I looked at a multiple regression analysis I have looked at R squared. Your eye is sort of drawn to it immediately. 00:57:58 00:58:00 00:58:03 00:58:04 00:58:17

Q. Okay. Did you always report those R squared values? 00:58:17 00:58:17

A. Wherever a multiple regression analysis is printed out by a statistical package. Every package I have ever seen R squared is there, and it's reported rather prominently. 00:58:19 00:58:21 00:58:24 00:58:28 00:58:31 00:58:32

Q. Is there a difference between an econometric model and a multiple regression analysis? 00:58:34 00:58:36 00:58:39

A. Multiple regression analysis is a set of statistical tools, models, and so on that is used in almost everywhere that statistics is used. So, of course, it's used in econometric models as well. It is used in biological models, environmental models. You name it it's used. 00:58:41 00:58:44 00:58:47 00:58:53 00:58:57 00:59:00 00:59:04 00:59:06 00:59:07

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Q. But my specific question is: Is there a difference between an econometric model and a multiple regression model? 00:59:09 00:59:11 00:59:14 00:59:17

A. A multiple regression model may be an econometric model. An econometrician may use it for econometric purposes. It's my understanding -- and we already established I'm not an expert in econometrics. It's my understanding that there is a wide variety of other kinds of models that are used in econometrics beyond simply multiple regression models. 00:59:18 00:59:21 00:59:24 00:59:25 00:59:27 00:59:28 00:59:30 00:59:33 00:59:35 00:59:38 00:59:42 00:59:43

Q. Okay. Aside from your telephone conversation with Dr. Milliken, did you have any conversations with anyone else regarding your testimony in this case? 00:59:47 00:59:50 00:59:54 00:59:55 00:59:57

A. At various times I had telephone conversations with attorneys. 01:00:03 01:00:05

Q. How many telephone conversations did you have? 01:00:09 01:00:11

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A. It's hard to say. On the order of maybe -- maybe on the order of a dozen. 01:00:12 01:00:15 01:00:17

Q. When was your first telephone conversation with an attorney regarding this case? 01:00:19 01:00:20 01:00:22

A. My guess is late February. I can't be certain of that. 01:00:25 01:00:32

Somewhere -- probably in February. 01:00:36

Q. Late February of this year? 01:00:38

A. Yes. 01:00:40

Q. And who was it that you spoke with? 01:00:41

A. I spoke to Mark Hall. 01:00:43

Q. What was the substance of that telephone conversation? 01:00:47 01:00:49

A. The substance of that conversation was that Mark asked me to work on these models for this case. 01:00:51 01:00:53 01:00:57

Q. Okay. And you said there were about a dozen. When was the next telephone conversation that you had with an attorney concerning your testimony in this case? 01:01:00 01:01:02 01:01:07 01:01:08 01:01:09

A. I'm sorry. I just -- it would be hard for me to pin that down. 01:01:11 01:01:14

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Q. Well, can you tell me -- it's difficult for me to ask this question without knowing when you had the specific conversations or referring to a specific conversation, but can you tell me generally what the substance of those conversations were? 01:01:18 01:01:21 01:01:23 01:01:25 01:01:27 01:01:28 01:01:29 01:01:31

A. I would say in most cases the substance of those conversations had to do with setting up time for a meeting or something like that. Just the normal interchange. No substance -- for the most part no substance of the models or the analysis itself. 01:01:33 01:01:35 01:01:37 01:01:46 01:01:48 01:01:50 01:01:52 01:01:56

Q. Okay. You say for the most part. Can you recall any instance where you had a discussion with Mr. Hall or any other defense attorney concerning the models which you analyzed in this case? 01:01:58 01:01:59 01:02:03 01:02:05 01:02:06 01:02:08

A. Yes. Yes. And that's among the calls that I tried to enumerate. Yes. I had -- I would say a few 01:02:09 01:02:11 01:02:13

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calls toward the -- oh, I would guess sometime in July. These calls had to do with while I was writing my report. 01:02:19 01:02:24 01:02:27 01:02:30

Q. And what was the substance of those calls? 01:02:33 01:02:35

A. In some cases the substance was discussion of items in my report. 01:02:36 01:02:39

Q. Which items? 01:02:42

A. Oh, I don't remember with precision which items. Just there were various aspects, various points in the report, wordings, this isn't clear, do you mean this by this sentence or two sentences. It was very helpful for me in order to make certain that I was writing clearly and understandably and expressing as unambiguously as possible the things that I wanted to write. 01:02:44 01:02:46 01:02:50 01:02:53 01:02:56 01:03:00 01:03:05 01:03:09 01:03:13 01:03:16 01:03:20 01:03:21

Q. Okay. So those conversations were in July, you said, to the best of your recollection? 01:03:22 01:03:23 01:03:26

A. To the best of my recollection 01:03:26

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that, of course, the report was due at the end of July. 01:03:28 01:03:29

Q. So those conversations in July with Mr. Hall were concerning an early draft of your report which you filed in this case? 01:03:31 01:03:34 01:03:37 01:03:38

A. That's correct. 01:03:40

Q. And Mr. Hall gave you advice concerning the wordings of specific sentences and things like that? 01:03:49 01:03:51 01:03:53

A. I think he raised questions. 01:03:56

Q. And you don't recall specifically which questions he raised? 01:04:02 01:04:04

A. Not with any sort of reproducible accuracy. 01:04:08 01:04:11

Q. Well, can you tell me generally the subject matter? 01:04:11 01:04:14

A. Let me try. 01:04:15

I'm trying to think of specifics. I assume that's what you want. 01:04:22 01:04:23 01:04:25

Q. To the extent that you can. 01:04:28

A. I know. And it's difficult because -- my thinking of the report sort of transforms with the 01:04:29 01:04:38 01:04:38

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report. So let me think. 01:04:40

I can remember vaguely, for 01:04:53
example, a paragraph that I had in 01:04:56
the early draft of the report that 01:04:59
after discussing it with Mark, it 01:05:09
didn't seem particularly clear, and 01:05:15
I tried to think of ways to fix it 01:05:18
so it would be clear. And then I 01:05:21
finally decided just to jerk the 01:05:24
whole thing, and -- 01:05:26

Q. What did that paragraph concern? 01:05:28

A. I think -- I believe it was in the 01:05:30
section having to do with if these 01:05:33
models are correct, then 01:05:37
such-and-such. 01:05:39

Q. Do you remember generally what that 01:05:46
paragraph that you removed said? 01:05:48

A. As I recall it was in terms of an 01:05:51
example, and I don't even remember 01:05:53
exactly what I was using the 01:06:02
example for, but as I thought it 01:06:03
through and discussed it with Mark, 01:06:07
it emerged as being kind of half 01:06:12
baked. So it appeared it really 01:06:14
didn't make a point. 01:06:17

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Q. What was the example? 01:06:18
A. Again, I don't recall exactly. 01:06:21
Q. Can you recall any other suggested changes or modifications to your report or anything else that you talked to Mr. Hall about? 01:06:32 01:06:34 01:06:36 01:06:36
A. I'm sure there were. In terms of being able to describe them specifically, I don't think I would be able to do that very satisfactorily. 01:06:38 01:06:41 01:06:42 01:06:44 01:06:46
Q. And, again, to the best of your recollection, this took place in July? 01:06:48 01:06:50 01:06:52
A. I'm really inferring that. I mean I don't remember the dates. It had to be before the final submission of the report which had to be the end of July. So my guess is these conversations took place within the week preceding that. 01:06:54 01:06:56 01:06:59 01:07:01 01:07:05 01:07:09 01:07:12
Q. Well, are you just telling me that you're inferring that the conversations with Mr. Hall took place the week preceding the 01:07:19 01:07:22 01:07:23 01:07:25

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deadline of your report, or are you telling me that to the best of your recollection it was in July? 01:07:27 01:07:29 01:07:30

A. I'm -- I have no recollection associating a date with those telephone conversations. The best I can do is to relate them to other events in time as a reference point. That's what I am -- that's what I'm doing. 01:07:33 01:07:37 01:07:38 01:07:41 01:07:44 01:07:47 01:07:49

Q. I understand. I am just trying to pinpoint a date here. 01:07:51 01:07:53

Was it more than three months ago? 01:07:54 01:07:56

A. Well, again, I would have to look at a calendar and see. It was, let's say, the last week of July. And so if we count roughly, it would be -- it would be probably less than three months. 01:07:57 01:07:58 01:08:02 01:08:08 01:08:13 01:08:16

Q. Did you receive any e-mails from any attorneys or consultants or anyone concerning your testimony in this case? 01:08:24 01:08:26 01:08:28 01:08:30

A. I believe I did exchange or receive 01:08:31

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e-mails from some persons involved, 01:08:34
yes. 01:08:40
Q. Tell me who you received e-mails 01:08:41
from. 01:08:44
A. If I remember correctly I received 01:08:44
e-mails -- some e-mail from Mr. 01:08:49
Hall's office. I say from his 01:08:54
office, because it may actually 01:08:59
have been sent by a secretary on 01:09:02
that person's e-mail address. 01:09:05
Q. How many were there that you 01:09:09
received from Mr. Hall's office? 01:09:10
A. I'm not even sure I did. If so it 01:09:13
was probably only one. 01:09:15
Q. Let's go back a minute before I 01:09:20
forget. We were talking about your 01:09:22
telephone conversation which you 01:09:24
think may have been sometime in 01:09:26
July with Mr. Hall concerning an 01:09:27
earlier draft of your report. Did 01:09:29
you retain a draft of your report? 01:09:31
A. No. I do that on the computer. 01:09:34
Q. Did you take any notes concerning 01:09:36
the substance of Mr. Hall's 01:09:38
comments? 01:09:40

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A. Not in terms of written notes, no. I don't -- I didn't. I was, you know, as I recall I was looking at it, you know, the image of the document on my screen at the time. 01:09:41 01:09:43 01:09:48 01:09:51 01:09:54

Q. So as you and Mr. Hall spoke back in July, you typed those comments directly into the report as you were on the telephone? 01:09:59 01:10:01 01:10:03 01:10:05

A. If I had comments. For the most part it's enough simply to -- I mean we weren't talking about word for word. Impressions, is this clear, that sort of thing. 01:10:06 01:10:08 01:10:10 01:10:13 01:10:16

And after a conversation like that, it's easy to go to the paragraph or page in question, remember, well, there was a problem here and set about trying to fix it. 01:10:21 01:10:22 01:10:25 01:10:28 01:10:30 01:10:32

Q. Let's go back to the e-mail that you received from Mr. Hall's office. Can you tell me the date that you received that e-mail? 01:10:35 01:10:37 01:10:39 01:10:41

A. No, and as I said earlier, I can't 01:10:43

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even be sure that I did receive an e-mail. I do seem to recall some sort of exchange of e-mail. 01:10:45 01:10:47 01:10:49

Q. Do you remember what the substance of the e-mail was? 01:10:52 01:10:53

A. I believe, for instance, in one case I may have actually transmitted the draft to his office by e-mail. 01:10:54 01:10:57 01:11:01 01:11:05

Q. When you say "the draft," what are you referring to? 01:11:08 01:11:10

A. Of my report. 01:11:11

Q. But you don't remember the date that occurred? 01:11:13 01:11:24

A. No, but it had to be toward the end of July. 01:11:24 01:11:24

Q. When you say you transmitted the draft, does that mean that there were changes made to that draft or was that your final report? Explain to me what you mean by that. 01:11:24 01:11:24 01:11:27 01:11:29 01:11:31 01:11:32

A. That was -- it's not exactly what ended up being the final report. So in that sense, when I sent it I 01:11:33 01:11:38 01:11:41

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knew that it was not in final form. 01:11:44
Q. Okay. So the draft that you're referring to, is that the document that Mr. Hall and you went over in your July conversation? 01:11:49 01:11:51 01:11:52 01:11:54
A. That's correct. 01:11:56
Q. Have you retained a copy of that draft? 01:12:05 01:12:07
A. I don't believe I have a copy of that draft. 01:12:07 01:12:10
Q. But you did in fact give a copy of that draft to your counsel via that e-mail, correct? 01:12:19 01:12:22 01:12:24
A. I believe it was by e-mail. 01:12:25
Q. Did you send any other copies of the draft? 01:12:29 01:12:32
A. To? 01:12:33
Q. To Mr. Hall. 01:12:34
A. Not that I recall. 01:12:35
Q. Did you send any other copies of the draft to anyone? 01:12:37 01:12:39
A. I sent a copy of the draft, if I remember correctly, to Bill Thompson. 01:12:40 01:12:44 01:12:46
Q. Who is Bill Thompson? 01:12:48

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A. Bill Thompson is -- I don't remember his exact title. Analyst or something like that in Kansas City at the firm of Shook Hardy. 01:12:49 01:12:51 01:12:56 01:13:00

Q. At the same time you sent the draft to Mr. Hall? 01:13:06 01:13:08

A. Yes. Yes. 01:13:09

Q. Okay. Did you have any conversations with Mr. Thompson concerning the draft of your report? 01:13:10 01:13:13 01:13:14 01:13:16

A. I think I did have a conversation or two with Mr. Thompson at that time. 01:13:16 01:13:19 01:13:22

Q. Were they telephone conversations or written correspondence? 01:13:22 01:13:24

A. I think they were telephone conversations. 01:13:27 01:13:28

Q. Can you tell me what the substance of those telephone conversations were? 01:13:29 01:13:30 01:13:32

A. The same sort of thing as I described for my conversations with Mr. Hall. 01:13:34 01:13:36 01:13:38

Q. And there were two telephone 01:13:40

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conversations with Bill Thompson? 01:13:41
A. I can't be sure how many there 01:13:43
were. 01:13:45
Q. Was it more than one? 01:13:45
A. I think it was more than one. 01:13:47
Q. Was it less than five? 01:13:49
A. Probably less than five. 01:13:51
Q. And these, again, were in late July 01:13:54
or mid July? 01:13:56
A. I would say late July. 01:13:58
Q. Did you retain any notes or 01:14:02
anything like that concerning your 01:14:08
discussions with Mr. Thompson? 01:14:10
A. I doubt it. I don't believe that I 01:14:13
do or that I did. 01:14:16
Q. Can you recall the substance of Mr. 01:14:23
Thompson's comments concerning your 01:14:25
draft report? 01:14:28
A. Not clearly, no. In fact, I 01:14:33
don't -- I don't remember. As I 01:14:37
recall, my conversations with Mr. 01:14:40
Thompson had to do with a few word 01:14:44
choices, I think. But I have no 01:14:56
idea how accurate my memory of 01:15:06
those conversations is. 01:15:08

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Q. Were there modifications made to your report as a result of your conversations with Mr. Thompson? 01:15:13 01:15:15 01:15:16

A. I made modifications to the report. 01:15:19

Q. Do you recall specifically what those modifications were? 01:15:21 01:15:22

A. I don't recall specifically. 01:15:24

Q. And, again, you didn't take any notes concerning those suggestions of Mr. Thompson? 01:15:32 01:15:33 01:15:35

A. So far as I can recall, I did not take any notes. 01:15:37 01:15:39

Q. Okay. Aside from the one e-mail from Mr. Hall's office, did you receive any other e-mails? 01:15:42 01:15:56 01:15:59

A. I may have received one or two or something like that. I received some other e-mails, yes. 01:16:01 01:16:06 01:16:09

Q. Okay. Who did you receive e-mails from concerning your testimony in this case or your report? 01:16:12 01:16:14 01:16:15

A. I received -- have I mentioned receiving e-mail from Mr. Thompson? 01:16:17 01:16:22

Q. I don't believe so. 01:16:27

A. There may have been an e-mail 01:16:28

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exchange with Bill Thompson. 01:16:31
Q. When was that? 01:16:34
A. At about the same time, because in some cases these -- you know, there were a few exchanges. I recall a few were telephone exchanges and a few were e-mail exchanges. That's about as specific I can get. 01:16:36 01:16:38 01:16:42 01:16:44 01:16:47 01:16:50
Q. The e-mail that you received from Bill Thompson, do you recall what that was? 01:16:53 01:16:55 01:16:57
A. Not -- not very specifically. I sort of doubt that it even had to do with the substance of the report. More likely had to do with deadlines, whom to send it to, whatever. 01:16:58 01:17:02 01:17:04 01:17:06 01:17:13 01:17:15
Q. Aside from the one e-mail or however many e-mails, we don't know at this point. Was it more than five with Mr. Thompson? 01:17:17 01:17:20 01:17:22 01:17:25
A. Oh, I doubt that. Almost certainly not. 01:17:26 01:17:28
Q. Two or three? 01:17:29
A. Perhaps. 01:17:30

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Q. Aside from the e-mails that you received from Bill Thompson and the one e-mail you received from Mr. Hall's office, did you receive any other e-mails from anyone else concerning your testimony in this case or your report in this case? 01:17:32 01:17:33 01:17:36 01:17:38 01:17:40 01:17:42 01:17:43

A. As far as I can recall, I did not. 01:17:46

Q. Have you retained those e-mails, sir? 01:17:52 01:17:54

A. It's possible. I don't think so, but it's possible. Sometimes I clean them out. Sometimes I don't. 01:17:55 01:17:56 01:17:58

Q. Okay. Can you check and see if you retained those e-mails? 01:18:08 01:18:08

A. I can check. 01:18:08

MR. HALL:

We will take it under advisement. 01:18:08 01:18:18

EXAMINATION BY MR. GRUENLOH:

Q. Have you participated or been present at any meetings concerning this case? 01:18:26 01:18:28 01:18:29

A. Yes. 01:18:30

Q. All right. Tell me how many. 01:18:32

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A. I would guess about five. 01:18:37

MR. HALL:

Before we get into meetings, do you want to take a quick break? 01:18:44 01:18:45 01:18:46

MR. GRUENLOH:

It's fine with me. I need to make a phone call. 01:18:49 01:18:51

THE VIDEOGRAPHER:

We're going off the record. The elapsed time is 1 hour, 15 minutes, and 24 seconds. 01:18:51 01:18:53 01:18:56

(A break was taken.) 01:56:23

THE VIDEOGRAPHER:

We're back at 1 hour, 53 minutes, and 7 seconds. 01:56:34 01:56:37

EXAMINATION BY MR. GRUENLOH: 01:56:41

Q. Dr. LaMotte, before we took our extended break, I believe my last question to you was have you taken part in any meetings concerning this case. I believe your answer was yes. I think you told me that you participated in about five 01:56:41 01:56:43 01:56:45 01:56:49 01:56:50 01:56:51 01:56:53

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meetings. Is that correct? 01:56:55
A. Yes. That's correct. 01:56:57
Q. Can you tell me when that first 01:56:59
meeting was, please? 01:57:01
A. I won't be able to give you exact 01:57:03
dates. It will be approximate, and 01:57:05
some of it is pure guess work. 01:57:08
Q. To the best of your recollection. 01:57:11
A. To the best of my recollection the 01:57:13
first meeting may have been in 01:57:14
March of this year. 01:57:16
Q. Who was that meeting with? 01:57:19
A. Again, I can't be certain. And I'm 01:57:21
not even sure I remember where it 01:57:27
was. In any case I can't recall 01:57:28
with certainty. I mean I can 01:57:33
guess. 01:57:35
Q. I don't want you to guess. If you 01:57:35
can recall the names of anybody who 01:57:37
was at that meeting, if you could 01:57:39
do that for me. 01:57:41
A. I am not certain. It seems to me 01:57:49
it was in Dallas, but it seems to 01:57:51
me that somebody who would have 01:57:57
been there was out of town or 01:57:58

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something. So that's why I said I 01:58:00
can't -- I don't want to mislead or 01:58:02
misname anyone. 01:58:05
Q. Was the meeting held at the offices 01:58:09
of Arnold Porter in Dallas -- I'm 01:58:12
sorry -- the offices of Jones Day 01:58:14
in Dallas? 01:58:16
A. I can't be sure. But if it was in 01:58:17
Dallas, it was at the offices of 01:58:18
Jones Day. 01:58:20
Q. Do you recall was Mr. Hall there? 01:58:21
A. Not with absolutely certainty. 01:58:24
That's why I hesitate because, of 01:58:28
course, normally he would be there. 01:58:30
Q. Okay. Do you recall whether any of 01:58:32
the defense experts in this case 01:58:33
were present at that meeting? 01:58:34
A. Certainly none of the experts were. 01:58:37
Q. What was the substance of that 01:58:46
meeting in March? 01:58:47
A. I don't recall. It would have been 01:58:48
about this case and about the 01:58:52
models, but I don't recall 01:58:54
specifics. 01:58:56
Q. Did you take any notes or did you 01:58:56

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have any correspondence or anything 01:58:58
like that in writing concerning 01:58:59
that first meeting in March? 01:59:01
A. Not to my recollection, no. 01:59:03
Q. Let's go on to the second meeting 01:59:12
of the five. Can you tell me when 01:59:13
that meeting took place? 01:59:15
A. My guess is it was early May. 01:59:17
Q. Where was that meeting held? 01:59:22
A. Again, I don't recall for certain. 01:59:25
Among the meetings I believe one 01:59:29
was in New Orleans at the airport 01:59:33
there. I seem to recall one at the 01:59:38
Atlanta airport. 01:59:40
Q. Do you recall where the May meeting 01:59:43
was? 01:59:44
A. That's what I am trying to say. I 01:59:45
can recall places, but I'm not sure 01:59:47
I can accurately link them to 01:59:50
dates. 01:59:52
Q. Okay. So there was one meeting in 01:59:53
New Orleans? 01:59:56
A. That's correct. 01:59:57
Q. And another meeting where? 01:59:57
A. I believe we met once at the 02:00:00

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Atlanta airport. 02:00:02

Q. Do you remember any other places aside from New Orleans and Atlanta? 02:00:07 02:00:09

A. I'm trying to think. We met once, yes, in Baton Rouge. 02:00:13 02:00:17

Q. That's four. Can you recall where the fifth meeting was? 02:00:22 02:00:24

A. The fifth was a meeting in Dallas at the offices of Jones Day, if I remember correctly. 02:00:26 02:00:34 02:00:37

Q. Okay. Let's go to the New Orleans meeting. Again, can you recall roughly when that meeting took place? 02:00:39 02:00:41 02:00:43 02:00:46

A. My guess would be early June. 02:00:48

Q. Do you remember who was present at that meeting? 02:00:55 02:00:57

A. I may be confusing the times. I think I remember who was present at that meeting. I believe that -- I believe at that meeting were -- I think Mark Hall was there. I believe Tom Finnel was there. Keith Borman, Bill Thompson, and I believe at the meeting Mark Haug 02:00:59 02:01:01 02:01:03 02:01:08 02:01:12 02:01:19 02:01:23 02:01:26

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also was present. 02:01:28
Q. Who is Mark Haug? 02:01:31
A. I believe Mark Haug is an attorney 02:01:33
with Shook Hardy. 02:01:37
Q. Anybody else present at that 02:01:47
meeting in New Orleans? 02:01:48
A. To the best of my recollection, no. 02:01:49
Q. Were there any experts aside from 02:01:52
yourself present at that meeting in 02:01:55
New Orleans? 02:01:56
A. No. 02:01:57
Q. Do you remember the substance of 02:01:58
your discussions at that meeting in 02:01:59
New Orleans? 02:02:02
A. In general it was about these 02:02:06
models used in this case. As to 02:02:10
specific items discussed, I don't 02:02:20
recall for sure. 02:02:20
Q. Was the meeting in New Orleans held 02:02:24
prior to you commencing work on 02:02:27
your report in this case? 02:02:28
A. Yes. Well, depends on what you 02:02:30
mean by commencing work on my 02:02:33
report. I assumed in answering 02:02:35
that that you meant actually 02:02:37

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writing the report. 02:02:39
Q. That's correct. 02:02:44
Did you reach any conclusions 02:02:48
as a result of the discussions that 02:02:53
you had in that New Orleans 02:02:55
meeting? 02:02:57
A. No, I don't think I reached any 02:03:00
conclusions. 02:03:03
Q. Okay. Did you come away with any 02:03:04
opinions concerning the models of 02:03:07
Dr. Harrison as a result of your 02:03:11
discussions in that New Orleans 02:03:13
meeting? 02:03:14
A. I don't think so, no. 02:03:17
Q. Let's go to the Atlanta meeting. 02:03:22
Well, let me ask you this 02:03:24
first before we go away from the 02:03:26
New Orleans meeting. Did you keep 02:03:28
any notes or anything like that, 02:03:29
anything in writing concerning that 02:03:31
New Orleans meeting? 02:03:33
A. I don't think I did. 02:03:33
Q. Let's go to the Atlanta meeting. 02:03:36
Can you tell me when that Atlanta 02:03:38
meeting was held? 02:03:40

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A. I'm not sure. I'm sorry. I just don't remember. 02:03:41 02:03:44
Q. Was it before or after the New Orleans meeting? 02:03:44 02:03:46
A. I would have to guess, and I can't say with certainty. It seems to me it was before. 02:03:49 02:03:53 02:03:55
Q. Can you tell me who was present at that Atlanta meeting? 02:03:57 02:04:00
A. I'm not certain. I could -- I'm sorry. I'm just not sure. 02:04:07 02:04:19
Q. Can you tell me was the meeting with your attorneys or was the meeting with other experts? 02:04:21 02:04:23 02:04:25
A. It was with attorneys and I'm pretty sure Bill Thompson was there also. 02:04:27 02:04:31 02:04:35
Q. Do you remember what the substance of the conversations were at that meeting in Atlanta? 02:04:43 02:04:44 02:04:46
A. As best I recall it was -- the similar sort of substance as we had discussed at other meetings. 02:04:48 02:04:55 02:04:57
Talking about the models, what I was working on, what I was looking 02:04:59 02:05:04

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into, that sort of thing. 02:05:06
Q. Do you recall any of the specifics 02:05:09
as far as what was discussed at 02:05:12
that meeting? 02:05:13
A. It's hard for me to associate 02:05:14
specific items with that specific 02:05:16
meeting. 02:05:18
Q. Were there any notes or anything 02:05:25
else in writing taken down by you 02:05:27
at that meeting? 02:05:30
A. Not to my recollection. 02:05:31
Q. Did you make any 02:05:36
modifications -- well, let me ask 02:05:37
you this. That meeting was held 02:05:40
prior to you commencing work on 02:05:44
your report as well? 02:05:46
A. Yes. 02:05:46
Q. Did you reach any opinions or form 02:05:56
any opinions or reach any 02:05:59
conclusions as a result of that 02:06:00
meeting in Atlanta? 02:06:03
A. I don't think so. 02:06:05
Q. Let's go to the next meeting in 02:06:08
Baton Rouge. Can you tell me when 02:06:10
that meeting was held? 02:06:11

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A. Let's see. Didn't I guess that that was early -- oh, wait. Sometime in June. I'm not sure. 02:06:14 02:06:16 02:06:20

Q. Who was present at that meeting? 02:06:23

A. I think at that meeting Mark Hall was present. Tom Finnel was present. I'm not sure whether -- I believe Keith Borman was at that meeting also. 02:06:25 02:06:32 02:06:35 02:06:43 02:06:45

Q. Can you tell me what the substance of the conversations were at that meeting? 02:06:49 02:06:51 02:06:52

A. You know -- let me think back. Because I'm probably messing up the time sequence here. 02:06:53 02:06:57 02:06:59

Q. All right. 02:07:00

A. Yes. In trying to answer that question, I remember the topic of that meeting and that would place it farther back in time. 02:07:06 02:07:10 02:07:13 02:07:16

Q. Okay. 02:07:19

A. That probably would have been -- maybe that's one I was thinking was late April or early May. I'm not certain of that. 02:07:20 02:07:24 02:07:30 02:07:33

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But the -- as I recall the purpose of that meeting was a reaction to the second set of Harrison models. I believe we had only seen the second at that point. I believe it was at that meeting that I was told that there was yet a third set coming. 02:07:34 02:07:38 02:07:43 02:07:50 02:07:54 02:07:57 02:08:00 02:08:01

Q. When you say second set, are you referring to his March report? 02:08:03 02:08:06

A. I'm not sure I remember the date correctly, but that sounds about right. Because the third one was the end of April, if I remember correctly. 02:08:09 02:08:11 02:08:13 02:08:15 02:08:17

Q. And can you tell me what specifically you discussed concerning Dr. Harrison's second report, his March report at that meeting? 02:08:24 02:08:25 02:08:27 02:08:30 02:08:34

A. I believe the question centered on how extensive the differences were, the changes were between that and the first report. 02:08:34 02:08:37 02:08:42 02:08:44

Q. At the time of the meeting was it 02:08:51

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your opinion that the changes between Dr. Harrison's first submission and second submission made in March were significantly different? 02:08:53 02:08:54 02:08:56 02:08:58 02:09:00

A. Yes. Definitely. 02:09:01

Q. Can you tell me why? 02:09:12

A. Oh, if I could remember the specifics. Of course, I have been working intensively with the third -- with the final set of models. My recollection of those others fades a bit. 02:09:12 02:09:12 02:09:14 02:09:14 02:09:17

There were differences in the variables included in the models. I believe that it was in the second set that he introduced the passive smoking variables into the adult model, possibly the children's model. I don't remember for sure. And I seem to recall there were some other differences as well, and those are substantial. 02:09:22 02:09:27 02:09:32 02:09:35 02:09:41 02:09:43 02:09:45 02:09:49 02:09:51 02:09:57

Q. Did you make any notes at that Baton Rouge meeting? 02:09:59 02:10:01

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A. Not that I recall. 02:10:02
Q. Let's go to the final meeting, the meeting which was held in Dallas. Can you tell me the date of that meeting? 02:10:06 02:10:09 02:10:10 02:10:12
A. That's the final meeting before my report was turned in. 02:10:15 02:10:19
Q. Are you asking me? 02:10:21
A. I'm telling you. I'm placing that. I'm sorry. I missed the question. 02:10:24 02:10:33 02:10:35
Q. My question was when was that final Dallas meeting held? You said there was a meeting held in Dallas in March, and then there was a subsequent meeting held in Dallas. I'm asking you the date of that meeting. 02:10:36 02:10:39 02:10:41 02:10:42 02:10:44 02:10:46 02:10:47
A. The subsequent meeting was in July, I believe. I don't remember the exact date. 02:10:48 02:10:51 02:10:53
Q. Was that meeting held before or after you had finished your work on your report in this case? 02:10:56 02:10:57 02:11:00
A. Before. 02:11:01

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Q. Can you tell me who was present at that meeting? 02:11:06 02:11:10
A. At that meeting -- I don't think there's any way I can list everyone who was present. There were quite a few people there, but I can try to recall some if you -- if that's what you would like for me to do. 02:11:12 02:11:14 02:11:17 02:11:19 02:11:22 02:11:24
Q. Well, maybe it would be more efficient if I went through a list and asked you. 02:11:27 02:11:28 02:11:30
A. I will try. 02:11:31
Q. All right. Was Dr. Rubin present at that meeting? 02:11:32 02:11:34
A. Yes. 02:11:35
Q. Was Dr. Matiowitz present at that meeting? 02:11:35 02:11:38
A. She was not physically present. 02:11:39
Q. Was she on the telephone? 02:11:42
A. She was on the telephone. 02:11:43
Q. Was Jay Ripps present at that meeting? 02:11:47 02:11:49
A. I believe so. There's some people whose names I'm not very familiar with. I'm familiar with his name, 02:11:50 02:11:52 02:11:54

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but I'm not certain I can attach to a person. I believe that he was present. 02:11:56 02:11:58 02:12:00

Q. Was Dr. Tonn present at the meeting? 02:12:02 02:12:04

A. Yes. 02:12:04

Q. Was Dr. Milliken present at the meeting? 02:12:05 02:12:07

A. Yes. 02:12:07

Q. Was Dr. McClave present at the meeting? 02:12:08 02:12:09

A. Yes. 02:12:10

Q. Was Dr. Godbout present at that meeting? 02:12:10 02:12:13

A. That I'm not certain of. 02:12:14

Q. Do you if she was on the telephone if she wasn't present? 02:12:17 02:12:20

A. I believe she was not present and not on the telephone, but that's the best of my recollection. 02:12:21 02:12:23 02:12:24

Q. Was Dr. Holmes present at that meeting? 02:12:26 02:12:28

A. I believe he was. I can't associate his name with a face though so I'm not absolutely 02:12:28 02:12:31 02:12:32

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certain. 02:12:34

Q. Was Dr. Viscusi present at that meeting? 02:12:38 02:12:41

A. I believe he was. 02:12:42

Q. How about Dr. Wecker? 02:12:43

A. Dr. Wecker was not present. 02:12:45

Q. Was Dr. Wecker on the telephone at that meeting? 02:12:49 02:12:51

A. I don't believe he was on the telephone. 02:12:52 02:12:53

Q. Was there anyone at the meeting representing Dr. Wecker? 02:12:57 02:12:59

A. I think there was. I don't recall his name unfortunately. 02:13:01 02:13:02

Q. Can you list for me the attorneys which were present at that meeting? 02:13:11 02:13:14

A. I can try. 02:13:17

Mark Hall was there. Tom Finnel was there. Keith Borman was there. I don't remember whether Mark Haug was there. I seem to recall that he was, and then there was at least one, maybe two other attorneys whom I had not met previously and whose names I don't 02:13:21 02:13:23 02:13:29 02:13:35 02:13:37 02:13:42 02:13:44 02:13:48

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recall. 02:13:51
Q. What was the purpose of that Dallas 02:13:53
meeting? 02:13:54
A. I believe the purpose was to get 02:13:55
all the experts together having to 02:14:01
do with these models. 02:14:05
Q. For what purpose? 02:14:09
A. You're asking me. I didn't call 02:14:11
the meeting. I don't know. 02:14:12
Q. Did you have any understanding as 02:14:14
far as what the purpose was of this 02:14:16
meeting? 02:14:17
A. I don't recall ever being told in 02:14:21
so many words exactly what the 02:14:24
purpose was. 02:14:25
Q. So you don't know what the purpose 02:14:34
of that meeting was? 02:14:36
A. You ask me if I know. I had no 02:14:37
purpose in -- I mean I had no role 02:14:41
in establishing the meeting so I 02:14:44
can't really speak to the purpose 02:14:45
of the meeting as envisioned by 02:14:48
those who called the meeting. 02:14:53
Q. Let me ask you this: What do you 02:14:54
believe the purpose of the meeting 02:14:56

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to have been? 02:14:57
A. I can only speak from my personal 02:14:59
point of view. 02:15:02
Q. Okay. 02:15:03
A. I can tell you what I thought might 02:15:07
be advantageous in such a meeting 02:15:13
if that's what you're asking or if 02:15:15
that would be satisfactory. 02:15:18
Q. Well, why don't you do that? What 02:15:22
do you believe to be the advantages 02:15:25
of having that meeting? 02:15:27
A. Well, the advantages are an 02:15:28
opportunity to hear what sorts of 02:15:40
things other persons working on the 02:15:40
same set of models in the same 02:15:42
broad area -- to see what sorts of 02:15:45
things they are looking at. 02:15:50
Q. Would it be accurate to say that 02:16:04
one of the advantages of that 02:16:06
meeting was so that you could 02:16:09
ensure that your report was 02:16:10
consistent with your fellow 02:16:12
experts's reports? 02:16:13
A. Are you asking me if that's what I 02:16:17
view as an advantage of such a 02:16:22

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meeting? I would not say that was actually in my mind at the time. 02:16:26 02:16:35

Q. Okay. Well, if Dr. Milliken is reporting a set of results which is exactly opposite to what you've reported in your expert report for the State of Oklahoma, would that be a problem in your mind? 02:16:37 02:16:46 02:16:49 02:16:51 02:16:52 02:16:55

A. It -- if I knew about it -- since I know and respect George Milliken, it would certainly make me go back and take another look at what I had done. 02:16:59 02:17:04 02:17:07 02:17:10 02:17:14

Q. Would you want to know that? Would you want to know if his results were directly to the contrary of your results prior to the submission of your report? 02:17:16 02:17:18 02:17:20 02:17:22 02:17:23

A. It would -- it could help me. I don't expect to be able to see every aspect of a rather complicated setting such as this from all possible perspectives, and so seeing what questions others are examining and what approaches they 02:17:29 02:17:35 02:17:41 02:17:44 02:17:47 02:17:51 02:17:56

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are taking is informative to me in my own inquiries. 02:17:59 02:18:02

Q. Well, given your statement just now that it would in fact help you to know if Dr. Milliken had reported something directly to the contrary of what you had reported, can you tell me whether you view as one of the advantages of that meeting the opportunity to make sure that your results are consistent with Dr. Milliken's? 02:18:06 02:18:08 02:18:10 02:18:13 02:18:14 02:18:16 02:18:20 02:18:23 02:18:24 02:18:27

A. Yes, from the point of view I already stated. Simply as another point of view that may cause me to look at my own work from a slightly different perspective. You asked about his -- as a hypothetical his results. My impression was that people didn't -- that many people who spoke at that meeting weren't really talking about results. They were really talking about questions, approaches, areas where they were looking. 02:18:29 02:18:32 02:18:36 02:18:39 02:18:41 02:18:47 02:18:52 02:18:58 02:19:03 02:19:07 02:19:09 02:19:10 02:19:14

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Q. Did you reach any conclusions as a result of that meeting in Dallas? 02:19:25 02:19:26

A. I think I was -- I think it was possible that I was influenced a bit, but I don't think that I could say I reached any conclusions as a result of that. 02:19:34 02:19:36 02:19:40 02:19:42 02:19:44

Q. When you say you were influenced a bit, can you tell me what you mean by that? 02:19:46 02:19:47 02:19:49

A. Yes, I think I can. 02:19:52

I was influenced by getting some idea of the range of things that people were looking at. I had not been aware of those. I had had no source of information of what other experts were looking at. 02:19:59 02:20:04 02:20:07 02:20:10 02:20:13 02:20:15

I think that influenced my view of -- a little bit. Just shaded my view of what sorts of things were important, what things were more important and what things were somewhat less important. I think hearing those things affected my views a little bit in that 02:20:22 02:20:25 02:20:29 02:20:31 02:20:33 02:20:35 02:20:38 02:20:41

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respect. 02:20:42

Q. All right. To the extent that you can recall, can you tell me what things you determined were more important and which things you determined were less important as a result of that meeting? 02:20:43 02:20:46 02:20:48 02:20:50 02:20:52 02:20:54

A. I -- I'm not sure I can detail those things. 02:20:56 02:21:02

Q. Well, do you recall any specific instances? 02:21:05 02:21:06

A. Well, I recall one aspect of my own work that was developing at that time was emphasized by hearing others talk that had been involved in sort of the same thing. That had to do with the NMES imputations -- imputations in the NMES data set. 02:21:07 02:21:13 02:21:18 02:21:23 02:21:26 02:21:29 02:21:35 02:21:38

Q. All right. Well, how did your opinion change with regard to the NMES imputations as a result of that Dallas meeting? 02:21:42 02:21:45 02:21:46 02:21:50

A. As I said, I was in process along a line that I had not pursued 02:21:51 02:21:53

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previously at that point, and some of the things that others said simply emphasized to me that that was a fairly major point. It was beginning to be spotlighted, that others had reached the same sort of indications that I had. 02:21:55 02:22:02 02:22:04 02:22:06 02:22:11 02:22:16 02:22:18

Q. Okay. Can you tell me specifically what the major point you're talking about is with regard to the NMES imputations? 02:22:20 02:22:21 02:22:24 02:22:26

A. The major point is the surprising extent of those imputations in the sources and amounts of payments of medical expenses. 02:22:27 02:22:30 02:22:33 02:22:35

Q. Okay. So prior to that meeting, you were unaware of those imputations which took place in the NMES database? 02:22:37 02:22:39 02:22:41 02:22:50

A. As I tried to explain, I was beginning to look into those more thoroughly than I had previously so I was beginning to see that they were surprisingly more widespread than I had thought. 02:22:50 02:22:50 02:22:52 02:22:54 02:22:58 02:23:00

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Q. So prior to that July Dallas meeting you had not reached an opinion concerning the imputation of the NMES database? 02:23:01 02:23:04 02:23:06 02:23:08

A. I wouldn't go that far. I think had that meeting not occurred and had I not heard others talking about the same thing, I believe I would have followed the same path, and I believe I would have come to essentially the same conclusion. Hearing them talk about it simply highlighted it for me a little more. 02:23:09 02:23:12 02:23:14 02:23:15 02:23:17 02:23:24 02:23:26 02:23:28 02:23:30 02:23:32

Q. When you say "them" who are you referring to? 02:23:32 02:23:34

A. Principally Dr. Matiowitz. 02:23:35

Q. What was Dr. Matiowitz's opinion regarding the imputations in the NMES database? 02:23:42 02:23:45 02:23:47

A. As I recall she talked about the kinds of imputations, talked about some examples of particular imputations of sources and amounts of expenses -- sources of payment, 02:23:48 02:23:51 02:23:56 02:23:58 02:24:02

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amounts of payment. 02:24:04

Q. The specific examples that Dr. Matiowitz gave at that Dallas meeting, were you aware of those prior to the Dallas meeting? 02:24:10 02:24:12 02:24:14 02:24:16

A. No. 02:24:18

Q. And those specific examples helped you to form your opinion concerning the imputation within the NMES database, correct? 02:24:23 02:24:26 02:24:27 02:24:30

A. As I said before, had I not heard that I probably would have come to the same place, but that added considerable emphasis to what was already developing in my own mind. 02:24:31 02:24:34 02:24:36 02:24:42 02:24:45

Q. Was there anyone else at the meeting that discussed the imputation within the NMES database? 02:24:48 02:24:51 02:24:53 02:24:55

A. I believe in the discussion, and there was -- I mean it was mostly discussion -- I believe others mentioned the same thing. I specifically believe Dr. Rubin mentioned it. 02:24:56 02:24:58 02:25:00 02:25:03 02:25:06 02:25:11

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Q. Okay. What was Dr. Rubin's opinion concerning the imputations within the NMES database as expressed in that meeting? 02:25:12 02:25:16 02:25:18 02:25:20

A. I don't remember him expressing an opinion. I do remember him mentioning the extent of imputations. 02:25:21 02:25:23 02:25:25 02:25:27

Q. Okay. So Dr. Rubin discussed the fact that there were in fact imputations made in the NMES database but did not express an opinion or make any comments concerning whether those imputations had been done correctly or incorrectly. Is that correct? 02:25:28 02:25:33 02:25:34 02:25:36 02:25:39 02:25:41 02:25:42 02:25:45

A. He may have. I don't recall. Of course, he would certainly be the one to comment on imputation. 02:25:47 02:25:52 02:25:56

Q. You consider Dr. Rubin an authority on imputation? 02:26:01 02:26:03

A. Well, I believe he's widely recognized as perhaps the world's leading authority on imputation. 02:26:05 02:26:08 02:26:11

Q. So do you consider Dr. Rubin an 02:26:15

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authority on imputation? 02:26:18
A. Imputation is not an area that I'm particularly expert in statistics, and so I don't personally directly have a basis for an opinion. 02:26:20 02:26:22 02:26:25 02:26:27
Q. Okay. Well, if you had to answer a question on imputation, that question came up in your line of work, would you call Dr. Rubin and ask him about that question? 02:26:30 02:26:32 02:26:35 02:26:36 02:26:38
A. He certainly would be one of the best possible sources. 02:26:44 02:26:46
Q. What are the other possible sources? 02:26:48 02:26:49
A. There -- I have been around other people who have been involved in imputation in various ways. I don't recall -- unfortunately I don't recall his name right now. There's a person at The University of Bergen in Norway whom I know who has published considerably in imputation. 02:26:50 02:26:53 02:26:54 02:27:01 02:27:03 02:27:05 02:27:08 02:27:11 02:27:13
Q. Is imputation an accepted practice among economists, statisticians, do 02:27:25 02:27:29

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you know? 02:27:34

A. It's a widespread practice. I presume from that that it's accepted. 02:27:36 02:27:38 02:27:41

Q. You say you presume from that that it's an accepted practice. Have you ever used imputation in your practice? 02:27:47 02:27:52 02:27:53 02:27:56

A. Not so far as I could recall right offhand. It's possible, but I don't recall any specific instances. 02:27:57 02:28:00 02:28:05 02:28:06

Q. All right. Let's go back to the participants at the Dallas meeting. 02:28:13 02:28:14

First of all, did you take any notes regarding that Dallas meeting? 02:28:18 02:28:20 02:28:21

A. I think I jotted down deadline dates. I think that's it. 02:28:22 02:28:26

Q. Nothing else? Nothing of substance concerning the -- 02:28:30 02:28:32

A. No. Nothing of substance. 02:28:34

Q. Do you know if anyone else at that meeting took notes? 02:28:37 02:28:39

A. I don't know. 02:28:40

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Q. Well, to the best of your recollection, did you see anyone jotting down notes, any of the experts? 02:28:47 02:28:47 02:28:50 02:28:52

A. To the best of my recollection, I don't recall. 02:28:54 02:28:56

Q. Did you give a presentation at that Dallas meeting in July? 02:28:59 02:29:00

A. No, I did not. 02:29:02

Q. Did any of the other experts that we discussed before give a presentation at that meeting in Dallas in July? 02:29:05 02:29:07 02:29:17 02:29:17

A. I wouldn't say that there were any presentations at that meeting. 02:29:17 02:29:17

Q. Okay. Were there any outlines or any written materials disseminated at that meeting in July? 02:29:17 02:29:21 02:29:24

A. No. Not that I saw. 02:29:26

Q. How did you learn that that Dallas meeting would be held? 02:29:47 02:29:50

A. I'm not sure. Probably by telephone call. 02:29:51 02:29:53

Q. Was there a written agenda or anything that you received 02:29:57 02:29:59

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concerning that meeting? 02:30:00
A. No. 02:30:02
Q. Did you receive an agenda via e-mail? 02:30:07 02:30:12
A. No. 02:30:13
Q. Can you remember what the substance of your comments were at that meeting? What did you personally discuss at that meeting? 02:30:22 02:30:24 02:30:26 02:30:28
A. I can remember vaguely. I don't think I can remember all the items, but the purpose of the comments that I made were to briefly describe what I was working on. I listed a few items and commented briefly on those. 02:30:30 02:30:35 02:30:38 02:30:45 02:30:49 02:30:57 02:31:00
Q. And you didn't work from any written materials when you -- 02:31:02 02:31:04
A. To the best of my recollection, I did not. 02:31:07 02:31:08
Q. Did you prepare any outline or handout or anything like that for that meeting? 02:31:11 02:31:13 02:31:15
A. No, I did not. 02:31:16
Q. To the best of your recollection, 02:31:27

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were there any goals set out at the beginning of that meeting by the attorneys? For instance, did they say, let's try to accomplish this today? 02:31:29 02:31:30 02:31:33 02:31:35 02:31:37

A. I don't recall that at all, no. 02:31:37

Q. To the extent that any of the experts at that meeting spoke more than another, can you tell me who that would have been? For instance, was there one person that dominated the conversation? 02:31:50 02:31:52 02:31:55 02:31:57 02:31:58 02:32:00

A. I wouldn't say that. There are different personalities. You get that many people around the table and some people use more words than others. I don't recall anyone dominating the proceedings. 02:32:01 02:32:03 02:32:05 02:32:08 02:32:11 02:32:14

Q. Did each of the experts give a presentation or speak regarding what they were working on? 02:32:16 02:32:18 02:32:19

A. I don't think each expert spoke particularly about what he or she was working on. A few did and others didn't. That's my 02:32:22 02:32:28 02:32:30 02:32:34

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recollection. 02:32:35
Q. Do you recall if there were any 02:32:39
conclusions which were reached by 02:32:41
the group as a result of that 02:32:44
meeting? 02:32:46
A. Certainly not. 02:32:49
Q. You don't recall or there were not? 02:32:51
A. I'm certain there was not. There 02:32:53
was no -- the meeting wasn't 02:32:55
conducted in that way. There was 02:32:57
no proposition for approval or 02:33:00
consensus or anything like that. 02:33:04
Q. All right. Aside from the topic of 02:33:09
imputation which we discussed a 02:33:12
moment ago, did you reach any other 02:33:14
conclusions or come away with any 02:33:17
other information from that meeting 02:33:19
which helped you to form your 02:33:21
opinion? 02:33:23
A. I think that -- I think I came away 02:33:27
with an impression that resulted 02:33:32
from some discussion there that 02:33:34
made me look at one item that I had 02:33:37
been working on a bit differently. 02:33:40
Q. What item was that? 02:33:43

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A. If I recall correctly, it had to do with the -- with an example I had been looking at illustrating that the estimated coefficients in the Harrison models were such that in most cases expenses estimated by those models with positive smoking levels were -- for some small positive smoking levels were less than expenses estimated for the person with the same conditions with no smoking variables so I believe it had to do with an example that I was looking at there. 02:33:45 02:33:54 02:34:07 02:34:13 02:34:17 02:34:21 02:34:27 02:34:29 02:34:33 02:34:38 02:34:40 02:34:43 02:34:47 02:34:48 02:34:50

Q. Is it your opinion that people who don't smoke generally have lower medical expenditures than people who do smoke? 02:35:01 02:35:04 02:35:07 02:35:09

A. I don't have any statistical basis for an opinion on that. 02:35:11 02:35:14

Q. Well, what then is the significance of the example that you just expressed to me concerning smokers having lower medical expenditures 02:35:24 02:35:27 02:35:29 02:35:32

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than nonsmokers or people with smoking variables having lower expenditures than people without smoking variables? 02:35:36 02:35:38 02:35:40 02:35:42

A. I have to correct a slight misimpression. 02:35:43 02:35:46

Q. Please do. 02:35:47

A. The example I am thinking of wasn't necessarily for a particular person's smoking characteristics but for a set of other characteristics whether that person was a smoker or not and assessing what happens if you then take the set of characteristics and plug them into the model and put in zero for all the smoking variables as opposed to putting in some positive amounts for the smoking variables. 02:35:49 02:35:53 02:35:58 02:36:05 02:36:07 02:36:09 02:36:12 02:36:14 02:36:16 02:36:18 02:36:20 02:36:22

It doesn't necessarily relate to a particular person. It may relate to conditions that came from a particular case in the data set. 02:36:24 02:36:25 02:36:27 02:36:31

But it wasn't necessarily a smoker, nonsmoker. Simply a set of data to 02:36:35 02:36:37

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illustrate implications and 02:36:40
characteristics of these models as 02:36:42
fit to these data. 02:36:44
Q. And that opinion is expressed in 02:36:45
your report, correct? 02:36:47
A. That opinion is expressed in my 02:36:56
report. 02:36:56
Q. How many individuals did you test 02:36:56
that example on? 02:36:56
A. Well, again, I didn't test it or 02:36:58
look at it with respect to 02:37:01
particular sets of individuals. I 02:37:06
did take particular sets of 02:37:08
characteristics from the data set 02:37:10
and use that in order to examine 02:37:14
this property of these models. 02:37:16
Q. Okay. But you tested that 02:37:21
hypothesis on no individuals? 02:37:26
A. I didn't test any hypothesis. This 02:37:27
is a characteristic of these 02:37:31
particular models as fit to these 02:37:33
data sets. So I'm not testing 02:37:35
hypothesis in a formal statistical 02:37:39
sense. 02:37:42
Q. We will get back to that in a 02:37:43

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little bit. 02:37:44

THE VIDEOGRAPHER:

Can we stop for a second so I can change the tape. 02:37:47 02:37:48

Going off the record. 02:37:53

Elapsed time is 2 hours, 34 minutes, 23 seconds. 02:37:53 02:37:57

(Off the record.) 02:39:07

THE VIDEOGRAPHER:

Beginning Tape 2 at 2 hours, 35 minutes, and 37 seconds. 02:39:07 02:39:10 02:39:12

EXAMINATION BY MR. GRUENLOH:

Q. Just a couple of more questions on the Dallas meeting which was held in July. Did you personally have any private conversations with any of the participants at that meeting? By private, I mean away from the group. 02:39:15 02:39:16 02:39:19 02:39:22 02:39:23 02:39:24 02:39:29

A. I'm trying to think. I talked briefly to George Milliken. I hadn't seen him in several years. Social conversation. 02:39:31 02:39:36 02:39:39 02:39:42

Q. Any conversation with Dr. Milliken 02:39:44

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on the substance of your report in this case? 02:39:47 02:39:50

A. It's possible that we exchanged some comments of substance. 02:39:54 02:39:58

Q. Do you recall what those comments may have been? 02:40:00 02:40:01

A. As I recall, we may have exchanged comments on the effects -- some effects of influential cases on the models. 02:40:03 02:40:08 02:40:12 02:40:16

Q. I'm sorry. Can you repeat that? Some effects? 02:40:22 02:40:23

A. Some effects of influential cases on the models. 02:40:24 02:40:26

Q. Can you explain to me what you mean by that? 02:40:27 02:40:29

A. Yes, I think I can. 02:40:30

Q. All right. 02:40:31

A. Regression models are fit by a method called least of squares. It's a natural, good method to fit models. It has the disadvantage that in some situations and in a data set with, say, hundreds of cases, the characteristics of the 02:40:35 02:40:42 02:40:45 02:40:47 02:40:54 02:40:59 02:41:03

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model may be disproportionately 02:41:06
affected by a few cases, perhaps 02:41:11
extreme cases. But they need not 02:41:13
be extreme. They may look like 02:41:17
other cases, but still be 02:41:20
configured in such a way that they 02:41:23
pull the estimated coefficients far 02:41:26
away from what they would be 02:41:30
without that case. And so -- 02:41:33

If you -- I was going to give 02:41:37
you an example, but I don't want to 02:41:41
start lecturing. 02:41:45

Q. Well, let me see if I understand 02:41:46
what you're saying in layman's 02:41:49
terms and tell me if this is 02:41:51
correct. 02:41:53

You're saying there may be 02:41:53
cases which are outliers, for 02:41:55
instance, that have more 02:41:57
expenditures or something else 02:41:59
which makes them different from the 02:42:01
rest of the group in some extreme 02:42:02
way and those have a 02:42:04
disproportionate effect upon the 02:42:05
rest of the coefficients in the 02:42:08

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model? 02:42:09
A. Yes. 02:42:10
Q. Is that correct? 02:42:11
A. That's reasonably correct. They 02:42:11
need not be outliers. It's 02:42:14
possible for cases to have 02:42:16
considerable and disproportionate 02:42:18
influence when they are not really 02:42:23
outliers in the usual sense of the 02:42:24
word. 02:42:26
Q. How are you defining the term 02:42:28
"outlier," first of all? 02:42:29
A. Well, that's a problem, too. 02:42:32
Because outlier is a little bit too 02:42:33
vague. It's probably better to 02:42:38
think in terms of influence. Sort 02:42:41
of an operational definition of 02:42:45
influence is take the case out and 02:42:47
see what happens. If a lot 02:42:49
happens, then it's influential. If 02:42:50
not much happens, then it's not 02:42:53
influential. 02:42:55
An outlier generally means a 02:42:57
case quite different than the main 02:43:02
body of the rest of the cases in 02:43:04

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some specific characteristic. 02:43:06

Q. All right. And you had a specific conversation with Dr. Milliken concerning that? 02:43:08 02:43:10 02:43:13

A. You asked if I had any individual conversations, or "private" I think was the word you used. 02:43:14 02:43:17 02:43:19

Q. Right.

A. I had social conversation lasting perhaps five minutes with George Milliken. During that brief conversation I believe one or the other or both of us said something about, you know, something to the effect of, gee, I had no idea that the results could be -- the results in these models could be so greatly affected by so few cases. Something like that. 02:43:22 02:43:25 02:43:28 02:43:32 02:43:35 02:43:38 02:43:41 02:43:47 02:43:50 02:43:52 02:43:57

Q. When you say that you had no idea, I assume then that someone called that to your attention at the meeting in Dallas? 02:43:59 02:44:00 02:44:02 02:44:03

A. Yes. I had been looking at that. 02:44:05

Q. Okay. 02:44:09

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A. And I may have mentioned something about that in my comments. 02:44:10 02:44:12

Q. Okay. What new information did you receive at the Dallas meeting that caused you to make that comment to Mr. -- or Dr. Milliken? 02:44:15 02:44:17 02:44:26 02:44:26

A. Oh, this was not based on any new information. 02:44:26 02:44:28

Q. Well, you said, gee, I had no idea that -- 02:44:28 02:44:29

A. I say one of us said that, and since I had talked specifically, as I recall, in my comments about -- I think one of the points I mentioned was about influential cases. Then it probably was George who said, gee, I didn't -- I had no idea that it was that bad or something like that. 02:44:30 02:44:33 02:44:37 02:44:41 02:44:43 02:44:45 02:44:48 02:44:51 02:44:53

Q. Okay. Did that Dallas meeting spawn any follow-up meetings or follow-up telephone conversations that you had with anyone else? 02:44:55 02:45:04 02:45:06 02:45:09

A. There was a -- I wouldn't say it spawned a follow-up. I think there 02:45:11 02:45:14

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was a continuation by conference call five, six days later. I don't recall exactly when. 02:45:16 02:45:20 02:45:27

Q. Who was on that conference call? 02:45:28

A. That I really -- if we went through the list, I might be able to say, but, of course, I couldn't see anybody. 02:45:30 02:45:33 02:45:35 02:45:36

Q. Right. Well, in general, was it the same participants as at the July meeting in Dallas? 02:45:38 02:45:40 02:45:42

A. Some. It was basically the same. 02:45:44

Q. Tell me what was the purpose of that follow-up conference call? 02:45:49 02:45:51

A. I believe it was just a continuation of the meeting, the previous meeting in Dallas. At that meeting some people had to leave to catch planes and that sort of thing. 02:45:53 02:45:55 02:45:58 02:46:01 02:46:03 02:46:06

Q. What was discussed at that conference call? 02:46:07 02:46:09

A. I remember less about that than I do the other meeting. Just in general a few people commented on 02:46:10 02:46:13 02:46:17

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what they were working on. The same sort of thing but by telephone this time. 02:46:22 02:46:23 02:46:26

Q. Was that conference call before or after you completed work on your report which you filed in this case? 02:46:27 02:46:29 02:46:32 02:46:34

A. It was before I had completed work on my report. 02:46:34 02:46:35

Q. Did you reach any conclusions as a result of that meeting or modify your report in any way? 02:46:36 02:46:37 02:46:40

A. No, I don't think so. 02:46:41

Q. Okay. Aside from the meetings and the telephone conversations that we just discussed in the last hour, are there any other meetings, telephone conversations, or correspondence which you can recall relating to this case which you had with any lawyers, experts, or consultants? 02:46:44 02:46:49 02:46:51 02:46:53 02:46:55 02:46:57 02:46:59 02:47:01 02:47:03

A. Let's see. It seems to me -- as I say, I have been thinking at this point up to the end of July 02:47:05 02:47:10 02:47:13

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primarily which is when I submitted my report. 02:47:14 02:47:16

Now I'm drawing a blank. No, I don't recall. 02:47:19 02:47:33

Q. Well, let me ask you this way, Dr. LaMotte. Did you have any meetings to prepare for this deposition specifically? 02:47:35 02:47:38 02:47:41 02:47:43

A. Yes. Yes. 02:47:43

Q. When were those meetings and how many were there? 02:47:44 02:47:47

A. Yesterday. 02:47:47

Q. Just one meeting? 02:47:48

A. Yes. 02:47:49

Q. Who was that meeting with? 02:47:49

A. That meeting was with Mark Hall, Tom Finnel, Keith Borman, Bill Thompson. 02:47:52 02:47:57 02:48:01

Q. Where was that meeting held? 02:48:03

A. It was in this room. 02:48:05

Q. Okay. What did you discuss at that meeting? 02:48:13 02:48:15

A. We discussed -- we had some discussion simply of the substance, the models. Not particularly 02:48:16 02:48:26 02:48:31

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related to preparing for deposition. 02:48:33 02:48:36

Q. Okay. Can you tell me specifically what about the models you discussed? 02:48:38 02:48:41 02:48:43

A. Oh, gosh. I think I described some work that I had done on a bootstrap. 02:48:44 02:48:49 02:48:53

Q. Anything else? 02:48:59

A. There was something else. Let me try to recall. 02:49:01 02:49:03

I'm not sure I recall. There was -- I'm trying to think of the first part of the discussion, because then later the discussion had to do with preparing. And I'm not sure -- at some point we talked about -- sort of an isolated topic -- but at some point we talked about the definitions that Professor Harrison used for these indicators for alcohol and drug abuse. I mentioned at that point some tabulations I had done some time ago. 02:49:22 02:49:29 02:49:31 02:49:32 02:49:34 02:49:39 02:49:42 02:49:48 02:49:51 02:49:53 02:49:56 02:49:59 02:50:06 02:50:09

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Q. Tabulations on the indicators of drug and alcohol abuse? 02:50:11 02:50:13
A. Yes. 02:50:15
Q. Are those reported in your report? 02:50:17
A. I don't think those are mentioned specifically in the report. 02:50:19 02:50:21
Q. Have you provided those tabulations to your counsel in this case? 02:50:28 02:50:30
A. I don't believe I have. I think at the time that I originally ran it which was back in the spring would be my guess -- I don't know for sure -- but I think I may have shown it to Bill Thompson. 02:50:33 02:50:35 02:50:38 02:50:42 02:50:45 02:50:48
Q. Well, tell me what the result of your tabulations were regarding the indicators of you said drug abuse and alcohol abuse. 02:50:51 02:50:53 02:50:55 02:50:58
A. Yes. It was just -- I just pointed out that if those are defined correctly and computed correctly, compiled correctly from the NMES database that they show that some 300 children age 7 or below according to that are alcohol 02:51:00 02:51:03 02:51:08 02:51:10 02:51:19 02:51:19 02:51:24

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abusers. I found that a little surprising. 02:51:27 02:51:30

Q. Okay. And, again, that finding is not in your report? 02:51:32 02:51:39

A. I don't think I mentioned that in the report. 02:51:41 02:51:44

Q. Do you still have a copy of those tabulations? 02:51:48 02:51:51

A. I have somewhere, and I'm not sure that I have it with me today but I do have it. 02:51:52 02:51:54 02:51:59

Q. Is that on a disk or is it hard copy report? 02:52:00 02:52:01

A. Just hard copy. I may have it with me. If you like, I will look through the items that I brought with me. 02:52:03 02:52:05 02:52:08 02:52:09

Q. Why don't you do that for me real quick? 02:52:10 02:52:15

A. Okay. I think I know where it is if it's here. If it's here it would be in this folder. 02:52:15 02:52:18 02:52:20

Actually I think these are them here. Would you like to see those? 02:52:25 02:52:28 02:52:32

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Q. Yes. Are these two separate tabulations and are these two pages part of the same document? 02:52:32 02:52:55 02:52:58

A. Two straight tabulations. 02:53:02

Q. Would you please mark these Exhibit #3 and Exhibit #4 to the deposition. 02:53:20 02:53:22 02:53:23

Dr. LaMotte, why didn't you provide these to your counsel earlier? 02:53:31 02:53:33 02:53:34

A. These were not directly relevant to the things -- the questions that I was looking at. 02:53:35 02:53:41 02:53:44

Q. Can you explain to me how they are not? 02:53:48 02:53:51

A. I suppose, but I wish you would ask more specifically. 02:53:52 02:53:55

Q. Well, if I could, I would. But can you explain to me what you're basing your opinion on that these Exhibit #3 and Exhibit #4 are not relevant to the work which you did on Dr. Harrison's model? 02:53:57 02:54:00 02:54:02 02:54:04 02:54:06 02:54:08

A. These tabulations have to do with variables that Dr. Harrison used in 02:54:17 02:54:22

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the model. In my analysis of his models I accepted his definitions of the variables used in the model. 02:54:24 02:54:27 02:54:31

Q. Okay. 02:54:34

A. I took those basically as given. So if he says use age, okay, age goes in the model. If he defines variable called years smoked in a certain way, I take his definition for it as given. 02:54:35 02:54:39 02:54:42 02:54:46 02:54:50 02:54:52

Q. Okay. 02:54:53

A. In other words, if he includes an item on risk taking, I was dealing with statistical questions, not particularly substantive questions, having to do with the nature of the things that those variables are measuring. 02:54:54 02:54:57 02:55:01 02:55:06 02:55:10 02:55:12 02:55:14

Q. Okay. 02:55:15

A. And so in this case, he included variables in the adult models and the children models -- children's models that were indicators as he described them as indicators for alcohol abuse and drug abuse. 02:55:17 02:55:19 02:55:24 02:55:27 02:55:30 02:55:33

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In the course of dealing with this data set extensively, I had occasion to look at tabulations involving those variables. What I saw to me was surprising to me in a substantive sense. As I used these variables in the models, I used them as he defined them. Exactly as operationalized by his code. But when I looked at them -- when I defined them and looked at them in a tabulation like this, I was surprised more from sort of a lay point of view to see some 300 children classified according to what apparently he intended to measure by this variable, classified as having abused alcohol -- a few of them less than one year old.

So the reason that was not particularly relevant to the questions I looked at in my report was that my general approach was to take his variables as he defined

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them and then to see what characteristics these models have. 02:56:59 02:57:01

Q. I see. 02:57:03

A. So I was not much concerned -- I didn't look at the substantive nature of those variables very much. 02:57:04 02:57:07 02:57:11 02:57:13

Q. All right. As a result of your tabulations as displayed in Exhibit #3 and Exhibit #4, have you reached the conclusion that Dr. Harrison's definition of his drug abuse variable and his alcohol abuse variable were incorrect? 02:57:14 02:57:18 02:57:21 02:57:23 02:57:26 02:57:30 02:57:32

A. I have no opinion on that. I hoped that my explanation would cover that. In a statistical sense, I have no opinion on that. 02:57:33 02:57:36 02:57:39 02:57:43

Q. All right. In your explanation just a second ago, you said you looked at specific questions, and that you took Dr. Harrison's definitions and variables at face value, you assumed them to be correct. Is that accurate? 02:57:45 02:57:50 02:57:51 02:57:53 02:57:57 02:57:59 02:58:01

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A. I think that's about what I said. 02:58:02
No, I didn't say -- well, I didn't say I assumed them to be correct. 02:58:06 02:58:08
Q. You took them as correct? 02:58:12
A. I took them as they were, let's say. 02:58:23 02:58:23
Q. All right. Well, who defined what specific questions you looked at in your report? 02:58:23 02:58:23 02:58:25
A. I defined what specific questions I looked at for the most part. 02:58:25 02:58:27
Q. You say for the most part. Did have you any input from counsel? Did they say look at this, maybe look at this? 02:58:30 02:58:32 02:58:35 02:58:36
A. Not that I recall. 02:58:37
Q. Well, you just said that you defined the specific questions you looked at in your report for the most part. Who else had input as far as you know? 02:58:41 02:58:42 02:58:43 02:58:45 02:58:47
A. I don't know. I'm simply not willing to say categorically that I know with certainty that I am the only one who determined what things 02:58:48 02:58:52 02:58:57 02:58:58

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I would look at. I may have been influenced in some way by a conversation with others at various times. 02:59:00 02:59:03 02:59:06 02:59:08

Q. Okay. What else have you brought with you to the deposition today? 02:59:10 02:59:11

A. You want me to go through the whole -- 02:59:13 02:59:16

Q. Tell me generally first, and then I will let you know. 02:59:17 02:59:19

A. Generally I brought the copy of my report and list of opinions. I brought the Harrison report, a blank tablet. I think somewhere in here there's a copy of my affidavit. 02:59:20 02:59:22 02:59:23 02:59:26 02:59:30 02:59:32

I brought printouts of programs that I supplied on the program disk. I brought some output, mostly just output of the models as run by those programs on the program disk. Plus that, and plus one other item having to do with the bootstrap that I mentioned. 02:59:34 02:59:37 02:59:39 02:59:43 02:59:50 02:59:52 02:59:58 03:00:02 03:00:04

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Q. Okay. 03:00:05
A. And I think that about covers it. 03:00:06
Q. Aside from Exhibit #3 and Exhibit #4, are there any other materials which you brought with you today which you have not previously provided to your counsel, to defense counsel? 03:00:09 03:00:11 03:00:13 03:00:14 03:00:15 03:00:16
A. I mean, I'm not sure in exactly the sense you mean. I haven't provided this -- I mean, I just ran this Wednesday, October 7. And I already mentioned to you that I mentioned something about a bootstrap run yesterday. This is output from it. 03:00:20 03:00:22 03:00:25 03:00:29 03:00:32 03:00:33 03:00:36 03:00:39
I ran the programs on the disk to produce the models, the estimates and so on from the models. I ran those sometime last night, and so I couldn't have provided counsel with these. 03:00:42 03:00:48 03:00:51 03:00:52 03:00:55 03:00:58
Q. All right. 03:01:00
A. But this is just -- it's a run of things that I have run before. 03:01:01 03:01:03

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Q. Okay. Aside from those things you just described, is there anything else in that folder or in any of the records? 03:01:07 03:01:09 03:01:10 03:01:13
A. No. There is nothing else that I haven't provided before. 03:01:14 03:01:16
Q. Can I please have that folder, that first folder? 03:01:19 03:01:22
A. Sure. 03:01:23
Q. Thank you. 03:01:24
This first document I am handing you out of the folder, is that the bootstrapping analysis that you just referred to? 03:01:34 03:01:35 03:01:38 03:01:40
A. Yes. And this is work that I don't regard as being complete. 03:01:42 03:01:45
Q. All right. 03:01:47
A. But that's correct. This has to do with the bootstrap or the sort of bootstrap that I mentioned earlier. 03:01:48 03:01:50 03:01:53
Q. That has not previously been provided to me, correct? 03:01:56 03:01:58
A. That's correct. It has not. 03:01:59
Q. You just did that when? 03:02:01
A. This says October 7 when this was 03:02:04

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printed. 03:02:09
Q. Okay. Can you please mark that 03:02:10
Exhibit #5 to the deposition. 03:02:13
A. I'll keep these separate. 03:02:35
Q. Can you tell me generally what that 03:02:36
bootstrap analysis purports to 03:02:39
show? 03:02:41
A. Yes, I can. But I want to 03:02:43
emphasize, this is work in 03:02:47
progress. 03:02:50
Q. I understand. 03:02:51
A. It happened to be something that I 03:02:52
had mentioned yesterday. 03:02:54
And it's not complete, 03:02:58
and -- but in any case I can 03:03:01
describe it to you. 03:03:08
Q. Please do. 03:03:09
A. The purpose of this sort of 03:03:11
bootstrap procedure is to assess 03:03:14
variability of the smoking 03:03:20
attributable fractions that come 03:03:24
out of these models. What I did 03:03:26
here, what I caused the computer to 03:03:31
do, was to repeat a process 100 03:03:34
times. In that process, in each 03:03:41

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replication of that process -- now being understood we will repeat that 100 times, I will talk in terms of one replication. 03:03:48 03:03:51 03:03:54 03:03:55

Q. Okay. 03:03:57

A. In one replication in the NMES data set, a sample without replacement with equal probability is taken of -- now, the exact number I'm not sure. 13,788 dwelling units, if I remember correctly. I believe that's the total number of dwelling units that are in the NMES data set. 03:03:59 03:04:04 03:04:09 03:04:13 03:04:15 03:04:20 03:04:22 03:04:25 03:04:29

Then from there adults, children are identified and the computational process leading to computing smoking attributable fractions is gone through so the outcome of that is a sample of dwelling units yields a sample of adults, a sample of children. That leads to fitting the models, the whole process to those as the data set. 03:04:33 03:04:40 03:04:46 03:04:49 03:04:53 03:04:54 03:04:57 03:04:59 03:05:03 03:05:15 03:05:15

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The outcome of that is a smoking attributable fraction for adults, for children in each of the four expense categories. 03:05:15 03:05:17 03:05:20 03:05:24

And so that means, for example, for adult hospital Medicaid expense -- all this is for Medicaid expenses -- in other words, the computations duplicate the Harrison computations. 03:05:29 03:05:30 03:05:32 03:05:35 03:05:38 03:05:41

And so for adult hospital Medicaid expense, we get 100 of those. And for physician expense, Medicaid expense we get 100 of those and so on. For adult, children, four categories of expense. So 100 of each one of them corresponding to 100 examples with examples in the NMES dwelling set. 03:05:45 03:05:49 03:05:54 03:06:01 03:06:04 03:06:06 03:06:06 03:06:09 03:06:13 03:06:17

Q. That's the process. Okay. I understand this is a work in progress and you said you haven't completed it yet. Have you reached any conclusions -- 03:06:18 03:06:20 03:06:21 03:06:23 03:06:25

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A. No. 03:06:27
Q. -- from that document, Exhibit #5? 03:06:28
A. I wouldn't say I have reached any 03:06:30
conclusion. This is in progress. 03:06:33
Something like this, of course, I 03:06:35
want to double-check it, I want to 03:06:37
look at it every which way. It's 03:06:40
always possible to make programming 03:06:45
errors, all of that sort of thing. 03:06:46
The reason I was looking at this 03:06:49
was that in a further effort to 03:06:50
assess variability. 03:06:52
And just looking at these as 03:06:57
unedited, undigested results, these 03:07:02
show considerable variability of 03:07:11
these smoking attributable 03:07:14
fractions. 03:07:16
Q. And what does that tell you? 03:07:17
A. Well, it seems to show more 03:07:19
variability than Professor Harrison 03:07:25
describes in the confidence 03:07:29
intervals that he expressed from 03:07:31
his bootstraps. So, for example, 03:07:33
in the 100 replications of the 03:07:40
hospital smoking attributable 03:07:44

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fractions, 6 out of 100 were less than 0. So there's a considerable overlap past 0 there. There's similar sorts of results for most of the other categories. So it simply shows a lot of variation in these. 03:07:47 03:07:51 03:07:56 03:08:01 03:08:03 03:08:06 03:08:09

Q. Okay. 03:08:09

A. But as I tried to emphasize this is in progress, this is preliminary. It's interesting, and it's potentially revealing, but I haven't had an opportunity to check it out carefully. 03:08:12 03:08:15 03:08:20 03:08:22 03:08:25 03:08:27

Q. Okay. Have you used the same bootstrap method that Dr. Harrison used? 03:08:29 03:08:31 03:08:33

A. I did try to replicate his bootstrap. In his bootstrap, he did the sampling with replacement from the adult data sets and the children's data sets separately. And he took -- he also did the nursing homes. 03:08:34 03:08:37 03:08:40 03:08:45 03:08:47 03:08:53 03:08:55

He took samples of 10,000 with 03:08:56

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replacement from the adult and children's data sets. And at some time ago, some weeks ago -- I don't remember when exactly -- I did attempt to replicate that. At that time, however -- and I was doing this in SAS -- the program was bogging down at times. There were times when the probit procedure failed to convert. This is not particularly unusual with probit. It's just that in a simulation like this it's very troublesome because it would get tied up in one iteration for sometimes 40 or 50 minutes before it finally figured out it wasn't going to get anything there and abandoned.

Q. I am afraid that we are going to use more technical terms and if I misuse the terms or if I put them in the wrong context, please let me know so I can rephrase the question.

A. That's okay.

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Q. I'm not entirely clear on your last answer as to whether what you reported there in Exhibit #5 is the exact same bootstrap method as used by Dr. Harrison. Can you tell me whether that is the same exact bootstrap method or not? 03:10:05 03:10:07 03:10:09 03:10:11 03:10:15 03:10:17 03:10:19

A. This is not the same bootstrap method. 03:10:20 03:10:23

Q. And understanding that Exhibit #5 is a work in progress, is it your opinion that based upon the bootstrap method used in Exhibit #5, that Dr. Harrison's variables confidence interval span zero, include zero? 03:10:23 03:10:24 03:10:26 03:10:28 03:10:30 03:10:36 03:10:40

A. Again, disclaiming that this is work in progress, and I haven't had an opportunity to check it out, but if these results persist, then that would be correct. 03:10:41 03:10:43 03:10:46 03:10:47 03:10:50

Q. And what is the significance of that when the variables span zero? 03:10:51 03:10:53

A. It is sort of a back door test of hypothesis. It's not really all 03:10:59 03:11:03

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together clean cut, but it may be interpreted as indicating that if in fact -- now, there are all sorts of things we haven't discussed here and they are discussed in my report. 03:11:08 03:11:17 03:11:22 03:11:26 03:11:29 03:11:39

Q. I understand. We will get to that in more depth later. 03:11:39 03:11:39

A. And I don't want to misstate by stating it too briefly. But assuming there is some -- some underlying smoking attributable fraction, what this would indicate is that that smoking attributable fraction -- if that SAF were zero, then a smoking attributable fraction estimate of the magnitude actually obtained by Dr. Harrison in his model would not be particularly unlikely. In other words, that his results could have arisen with some likelihood from a situation in which there actually was zero smoking attributable fraction. 03:11:39 03:11:43 03:11:47 03:11:50 03:11:55 03:11:58 03:12:07 03:12:10 03:12:11 03:12:14 03:12:17 03:12:19 03:12:24 03:12:28 03:12:31 03:12:34

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Q. When you say some likelihood, you are talking about the confidence interval, correct? 03:12:34 03:12:37 03:12:38

A. Yes. And, again, it's in terms of this bootstrap which is not a formal test of a hypothesis. And in part I am reacting form Dr. Harrison's presentation in which he -- it appeared to me that he represented the fact that his confidence intervals did not overlap zero as somehow establishing that SAFs were positive and so this is in part reaction to that. 03:12:39 03:12:43 03:12:45 03:12:48 03:12:50 03:12:53 03:12:56 03:12:58 03:13:00 03:13:02 03:13:05 03:13:11

And if they do overlap zero, it gives some indication that there's sufficient variability inherent in this process that a SAF of the magnitude estimated by Dr. Harrison could in a random sampling situation could reasonably arise by chance alone. 03:13:14 03:13:19 03:13:22 03:13:24 03:13:30 03:13:32 03:13:36 03:13:38

Q. Well, what confidence interval are you operating on in Exhibit #5? 03:13:39 03:13:42

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A. Well, I haven't. I haven't specified a level of confidence. But when I said that 6 of these overlapped 0, that's 6 out of 100, and that corresponds roughly to a "P" value of 6 percent. So that would say that if this were viewed as a procedure for testing hypothesis, that the SAF is not significantly different from 0 at the 5 percent level of significance. But I want to -- 03:13:44 03:13:45 03:13:47 03:13:50 03:13:53 03:13:55 03:13:58 03:14:02 03:14:03 03:14:07 03:14:10 03:14:11

Q. Let me ask you this before you -- 03:14:14

MR. HALL:

Don't interrupt. Did you need to finish? 03:14:18 03:14:19

THE WITNESS:

No. Well, yes. Just to make the same sort of disclaimers. This is preliminary and this is in progress. Bootstrap is not in my opinion a clear-cut way to test a statistical hypothesis. 03:14:21 03:14:24 03:14:26 03:14:27 03:14:28 03:14:30 03:14:37 03:14:40

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EXAMINATION BY MR. GRUENLOH: 03:14:43

Q. Okay. You just said at the five percent confidence interval? 03:14:43 03:14:46

A. Five percent level of significance. 03:14:48

Q. Five percent level of significance. 03:14:50

What about the six percent level of significance? 03:14:51 03:14:53

A. Well, if this were done -- let's take it on so we don't have to worry about equal and not equal. Take it to a seven percent level of significance. That would say then that if we were using this which I tried to say is a slight misuse of this, but if we were using this to test the significance at the 7 percent level of significance, then these results would say that the SAF is significantly different from zero at the 7 percent level. 03:14:54 03:14:56 03:14:59 03:15:01 03:15:03 03:15:04 03:15:08 03:15:10 03:15:13 03:15:15 03:15:20 03:15:24 03:15:26

Q. At the seven percent level, but not at the five percent level? 03:15:29 03:15:30

A. That's correct. With all of the disclaimers -- I mean this is a kind of a shoddy procedure. 03:15:31 03:15:33 03:15:34

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Q. Okay. Do you intend to do any more work on Exhibit #5 between now and the time of trial? 03:15:47 03:15:52 03:15:54

A. I would like to, yes. 03:15:56

Q. Has your counsel directed you to do anymore work on Exhibit #5 on the bootstraping method between now and the time of trial? 03:15:57 03:16:00 03:16:04 03:16:04

A. I don't think I have been directed to. 03:16:06 03:16:07

Q. You don't think? Have you discussed it? 03:16:09 03:16:10

A. We -- you know, I mentioned these results yesterday, but I don't recall anyone saying, gee, go ahead. I was planning to look further into this myself anyway. 03:16:13 03:16:14 03:16:17 03:16:20 03:16:22

Q. So you intend to finish up that analysis? 03:16:24 03:16:26

A. If it's possible to finish it, yes, I certainly want to pursue it. 03:16:27 03:16:29

Q. Well, Dr. LaMotte, why didn't you do that analysis in your original report? 03:16:34 03:16:36 03:16:38

A. If I had had time I would have, but 03:16:39

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I ran out of time. 03:16:43
Q. Okay. When did you submit your original report to defense counsel? 03:16:44 03:16:47
A. The original report, I presume you mean the first draft that I submitted. 03:16:51 03:16:54 03:16:57
Q. I mean your final draft. 03:16:57
A. The final draft was probably July 30. 03:16:59 03:17:03
Q. Okay. And when did you do that bootstrap analysis? 03:17:05 03:17:06
A. This was -- this means tying up the computer for a couple of days. This printout was October 7. 03:17:09 03:17:12 03:17:16
Q. So you didn't have any time in between July 30 and October 7 to do that analysis? 03:17:21 03:17:23 03:17:25
A. I had plenty of time, but unfortunately I had other obligations that I had to put in front of this. 03:17:27 03:17:29 03:17:31 03:17:33
Q. All right. Did you inform your counsel prior to October 7 that you intended to do that analysis? 03:17:34 03:17:44 03:17:45
A. I don't think I did, no. 03:17:49

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Q. I know this might be repetitive, but can you identify the rest of the materials here? I think you said they were printouts of something that you did. 03:17:56 03:17:58 03:18:00 03:18:01 03:18:03

A. I think this is -- these other materials are just a straight run through of my programs, my SAS programs to generate the Harrison models so that means probit and log linear model for hospital, physician, other professional, drugs, for adults, for children. So there's that set of, you know, 8 -- 16 models, and output for those that occurs first. 03:18:05 03:18:09 03:18:12 03:18:15 03:18:18 03:18:26 03:18:29 03:18:30 03:18:34 03:18:41 03:18:44

Q. When did you complete those runs? 03:18:47

A. This was -- the time it gives on here is 16:58 Thursday, October 8. But that simply means the time I started SAS. I think it was more like 10:00 that night. 03:18:49 03:18:53 03:18:56 03:18:58 03:19:00

Q. So those runs were not reported or not included in your report which was filed with the court in this 03:19:03 03:19:05 03:19:06

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case? 03:19:08

A. These runs were not included. 03:19:09

Q. Can you tell me why? 03:19:14

A. Because all the programs that generated these were in the disk that I supplied at that time. All someone has to do is push a button. 03:19:16 03:19:18 03:19:20 03:19:22

Q. Why have you decided subsequent to the submission of your report in this case to do those runs? 03:19:25 03:19:27 03:19:29

A. I did these so that I would have these to refer to if I were asked questions about the models themselves. 03:19:31 03:19:33 03:19:36 03:19:38

Q. May I have those, please? 03:19:43

A. Sure. I didn't finish telling you the rest of it. 03:19:44 03:19:46

Q. Please do so. 03:19:47

A. Okay. We got through the models. And after the models, then come the calculations of the SAFs. 03:19:48 03:19:51 03:19:53

Q. Okay. What page does that begin on? 03:19:57 03:20:00

A. Actually these are numbered consecutively so that starts on 03:20:00 03:20:02

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Page 29. It shows the SAFs for adults broken out into race, age, sex categories. 03:20:05 03:20:10 03:20:14

And then it shows the details leading to Harrison's SAFs in which he does these calculations in the margins looking at female and male SAFs, white, black and Hispanic SAFs, and age group SAFs. And then the same for the children's models. 03:20:18 03:20:20 03:20:26 03:20:27 03:20:31 03:20:34 03:20:37

And then the nursing home probit model starts on Page 40. The nursing home SAFs follow that on Page 42. 03:20:41 03:20:43 03:20:48 03:20:52

And then finally is the computation of Medicaid savings as computed by Dr. Harrison. So that's reproduced on the last two pages. 03:20:54 03:20:56 03:21:03 03:21:06 03:21:08

Q. Have you included any runs on Dr. Harrison's OCGIB results, OCGIB models? 03:21:08 03:21:12 03:21:19

A. No, I have not. 03:21:20

Q. Have you done any analysis of those, those OCGIB models? 03:21:21 03:21:23

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A. I don't believe I have. 03:21:25
Q. Do you intend to do an analysis of Dr. Harrison's OCGIBs? 03:21:26 03:21:30
A. I don't have plans to do so at this time. 03:21:33 03:21:35
Q. It's fair to characterize this document which you were just explaining as one document, as the runs of Dr. Harrison's models that you just completed last night? 03:21:38 03:21:40 03:21:42 03:21:44 03:21:47
A. That's correct. 03:21:48

MR. HALL:

I object to the form. That's vague, and I don't think that's an accurate characterization of what it was. 03:21:49 03:21:50 03:21:51 03:21:53 03:21:53

EXAMINATION BY MR. GRUENLOH:

Q. I'm sorry, sir. What was your answer? 03:21:57 03:21:57
A. As I understood your question, I ran that last night. I ran it using the programs that were supplied on the disk that was submitted with my report. 03:21:59 03:22:04 03:22:10 03:22:12 03:22:14

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Q. That was my only question. Nothing nefarious intended. 03:22:16 03:22:19

Can you please mark this Exhibit #6 to the deposition. 03:22:20 03:22:22

I just wanted to make sure we could mark it collectively as opposed to 75 individual exhibits. 03:22:31 03:22:34 03:22:36

Did you participate in any sort of practice or mock deposition prior to this deposition? 03:22:41 03:22:42 03:22:45

A. I would -- I suppose you could call it practice. I wouldn't call it a mock deposition. But I did participate in preparation for this deposition. 03:22:49 03:22:51 03:22:53 03:22:58 03:23:00

Q. All right. Well, describe to me what that was then. 03:23:01 03:23:02

A. It was -- it wasn't a very formal proceeding. But it interspersed with discussion and comments. Mr. Hall and Mr. Finnel asked me questions which I then attempted to answer. 03:23:06 03:23:09 03:23:16 03:23:21 03:23:23 03:23:29

Q. When was that? 03:23:29

A. This was yesterday. 03:23:30

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Q. Do you remember any of the specific questions they asked you? 03:23:32 03:23:33

A. I'm sure I can remember some. I just -- they just don't come to mind right offhand. 03:23:41 03:23:43 03:23:45

Q. Do your best. 03:23:49

A. Let me try to get into that mode. 03:23:51

If I could get on to one line of questioning I could give you some examples. There wasn't much having to do with substance. 03:24:08 03:24:10 03:24:12 03:24:20

I'm trying to think of specifics. I have an idea of a few, you know, sort of general topics but I don't remember specific questions at this point. I'm kind of drawing a blank there. 03:24:35 03:24:37 03:24:41 03:24:43 03:24:52 03:24:52

Q. All right. Maybe we can go over that again as we are going through your bullet opinions a little bit later. 03:24:52 03:24:52 03:24:55 03:24:55

A. That's fine. 03:24:56

Q. Have you reviewed any tobacco industry documents in preparation for your testimony or your work in 03:25:03 03:25:05 03:25:07

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this case? 03:25:08
A. Not that I know of. But I suppose 03:25:09
I don't know if I would recognize a 03:25:15
tobacco industry document. 03:25:18
Q. All right. That's fair enough. 03:25:21
Have you reviewed any 03:25:22
documents which appeared to be on 03:25:23
Philip Morris letterhead, R.J. 03:25:27
Reynolds letterhead, Brown & 03:25:30
Williamson letterhead, BAT 03:25:32
letterhead in preparation for your 03:25:36
testimony in this case? 03:25:37
A. No. 03:25:38
Q. Well, it seemed like you had a 03:25:49
problem with what I was considering 03:25:51
to be tobacco industry documents. 03:25:53
What do you consider them to be? 03:25:55
A. That's why I mentioned that. I'm 03:25:58
not sure I know what a tobacco 03:25:59
industry document is. 03:26:01
Q. All right. Let's define tobacco 03:26:03
industry documents as any internal 03:26:06
documents from within any of the 03:26:08
companies which are defendants in 03:26:12
this case. Okay? 03:26:14

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A. That's fine. 03:26:16
Q. Using that definition, have you reviewed any internal tobacco industry documents? 03:26:19 03:26:20 03:26:24
A. No. 03:26:32
Q. Well, do you believe that a review of the tobacco industry documents, internal tobacco industry documents is necessary in order to do an analysis of damages in this case? 03:26:32 03:26:36 03:26:39 03:26:42 03:26:45
A. It seems to me the question goes beyond things that I looked into. 03:26:49 03:26:52
Q. How so? 03:26:58
A. Well, I believe you indicated an assessment of damages. 03:26:59 03:27:03
Q. I said an analysis of damages in this case. 03:27:05 03:27:06
A. An analysis of damages. If you could be more specific. That sounds very broad to me. It's like the whole ballgame. And if it is, if you're referring to the whole process of somehow analyzing evidence in order to try to come up with a number that somehow 03:27:07 03:27:11 03:27:14 03:27:17 03:27:23 03:27:25 03:27:28 03:27:31

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represents monetary damages, there's an awful lot about that that I don't claim any expertise in. 03:27:33 03:27:36 03:27:38 03:27:40

Q. Okay. But for the analysis that you have done you don't believe it's necessary to review the internal tobacco industry documents. Is that correct? 03:27:41 03:27:49 03:27:54 03:27:58 03:27:59

A. That's correct. For the analysis and the questions that I have looked at. I have felt no need for any such information. 03:28:01 03:28:02 03:28:04 03:28:11

Q. Do you plan on reviewing any tobacco industry documents between now and the trial of this case? 03:28:28 03:28:31 03:28:34

A. I don't have any plans or anticipate any need to. 03:28:36 03:28:37

Q. You testified earlier that you had not read the petition in this case, correct? The complaint? 03:28:55 03:28:57 03:29:00

A. I believe that's what I said. 03:29:01

Q. Do you plan on reviewing it between now and the time of trial? 03:29:04 03:29:06

A. I don't plan on reviewing it. If 03:29:07

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given the opportunity, I would not mind reviewing it. 03:29:11 03:29:14

Q. Well, as an expert who is providing an opinion on damages in this case, do you believe it's necessary for you to review the complaint? 03:29:17 03:29:19 03:29:21 03:29:22

A. I don't believe I'm providing an opinion on the whole process encompassed under the term damages. 03:29:25 03:29:28 03:29:34

Q. You are providing an opinion on damages, correct? 03:29:38 03:29:39

A. I am providing an opinion on certain procedures and models that apparently lead to some computations estimating some numbers that may be associated with damages. 03:29:41 03:29:44 03:29:47 03:29:51 03:29:53 03:29:56

Q. Tell me how you would characterize your analysis, the analysis that you completed in this case. 03:30:06 03:30:07 03:30:09

A. That's a very broad -- 03:30:14

Q. I understand. 03:30:16

A. The best I can do is simply say I think that my report is a good representation of my analysis. 03:30:17 03:30:20 03:30:23

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Q. Well, I just don't want to misrepresent what you believe to be your report -- your report to be. That's why I am asking you to characterize it for me. 03:30:25 03:30:27 03:30:29 03:30:31 03:30:33

A. I'm sorry. I just don't know what you mean. To characterize it? I mean -- 03:30:35 03:30:38

Q. You said it's not a damage analysis. 03:30:42 03:30:44

A. I'm not sure I actually said that it's not a damage analysis. 03:30:48 03:30:50

Q. Well, is it? 03:30:52

A. But it's not in my opinion -- it's not what I would consider to be a complete damage analysis. 03:30:53 03:30:56 03:30:58

Q. All right. Is it a damage model? 03:31:01

A. The models that are proposed and used by Dr. Harrison, I believe, are used with the -- are constructed with the intent that they be used to somehow estimate damages. They are not my models. They are his models. 03:31:06 03:31:09 03:31:12 03:31:16 03:31:18 03:31:20 03:31:24

Q. I understand but my specific 03:31:25

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question is your report a damage model? 03:31:27 03:31:28

A. My report is definitely not a damage model. 03:31:29 03:31:32

I'm sorry. I didn't understand the question earlier then. 03:31:33 03:31:34 03:31:35

Q. That's fine. 03:31:35

Well, I would characterize your report as a critique which you have done on Dr. Harrison's report. Do you accept that characterization? Do you think that's accurate? 03:31:37 03:31:40 03:31:43 03:31:46 03:31:47 03:31:57

A. I think -- I think that's reasonably accurate. You say that it's a critique of Dr. Harrison's report. I really didn't set out to critique his report, to identify vague statements and misspellings and so on. I believe that my analysis is directed toward his models, toward the models that he describes in his report. 03:31:57 03:31:57 03:31:57 03:31:59 03:32:09 03:32:13 03:32:19 03:32:21 03:32:23 03:32:25

Q. Do you have any intention of 03:32:47

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publishing your report? 03:32:49
A. This report? 03:32:50
Q. Yes. 03:32:51
A. No. 03:32:52
Q. Could you publish that report? 03:32:56
Would it stand alone in the 03:32:57
literature without being able to 03:32:59
refer back to Dr. Harrison's 03:33:00
report? 03:33:03
A. It's aimed entirely at Dr. 03:33:05
Harrison's analysis. In isolation 03:33:07
it wouldn't be intelligible, I 03:33:12
think. 03:33:16
Q. So the report that you have 03:33:21
completed in this case is in fact 03:33:23
not an independent damage report or 03:33:24
analysis. Would that be accurate? 03:33:27
MR. HALL:
Objection to form. 03:33:32
Vague. 03:33:35
THE WITNESS:
I guess my problem is 03:33:36
with the word "independent." 03:33:38
Because ordinarily that 03:33:39
would mean it's something 03:33:40

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that I did. 03:33:41

EXAMINATION BY MR. GRUENLOH: 03:33:43

Q. By independent, I merely meant it could stand alone in the literature by itself. 03:33:44 03:33:47 03:33:50

A. I believe as you originally stated the question it was as a damage report or damage analysis? 03:33:52 03:33:53 03:33:56

Q. Correct. 03:33:58

A. And I would say no. It would not stand alone as such a damage analysis. 03:33:59 03:34:02 03:34:06

Q. Dr. LaMotte, do you have file that you keep on this case? 03:34:17 03:34:19

A. I have -- I'm not sure what you mean by a file on this case. I have -- 03:34:26 03:34:27

Q. (Indicating). 03:34:30

A. Yes, like that. 03:34:30

I have a file in which, for example, I have the letter that Mr. Hall sent me asking me to work on the case, you know, correspondence of that sort. I generally -- I think in that same file, I put 03:34:31 03:34:34 03:34:39 03:34:42 03:34:44 03:34:53

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little stickies where I keep track of time spent, that sort of thing. 03:34:55 03:34:58

I have -- you asked about files. There are other files with -- like this, you know, with listings of programs and that sort of stuff. 03:35:01 03:35:04 03:35:06 03:35:08 03:35:10

Q. Well, I thought when I asked you before if you had any correspondence with any of the attorneys in this case, written correspondence, I thought that you told me you did not. Did I misunderstand? 03:35:12 03:35:15 03:35:16 03:35:19 03:35:20 03:35:21 03:35:24

A. I may have misunderstood the question or something, because I had this written letter from Mr. Hall, I believe, and each time I -- each time I sent an invoice and get a check back, there's a little cover letter with that. 03:35:26 03:35:28 03:35:30 03:35:32 03:35:39 03:35:43 03:35:45

Q. Okay. 03:35:47

A. But as to the substance of the case, I don't believe there's any or my analysis -- I don't have any 03:35:50 03:35:52 03:35:54

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written correspondence. 03:35:57

Q. Okay. You said the other sort of information that might be in that file that you have would be information maybe such as Exhibit #3 through #6? 03:35:58 03:36:03 03:36:04 03:36:06 03:36:08

A. But not in that particular file, but perhaps in other files, yes. 03:36:10 03:36:12

Q. Have those files been turned over to your defense counsel? 03:36:17 03:36:19

A. No. No. That's all stuff that -- to the extent I keep it, it's stuff that I probably couldn't figure out what it is now if I went back and looked at it. 03:36:20 03:36:22 03:36:27 03:36:28 03:36:30

Q. Have you relied upon any of the material in those files to form any of your opinions regarding Dr. Harrison's -- 03:36:34 03:36:36 03:36:38 03:36:40

A. No. As I said, most of it -- whatever is there is mostly SAS output, for example, and probably I couldn't look at it and tell you why I did it even at this point. At some point I will go 03:36:42 03:36:43 03:36:46 03:36:50 03:36:52 03:36:55

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ahead and throw that stuff away. I don't have any idea what it is. 03:36:58 03:37:00

Q. Do you still have those files? 03:37:03

A. I have some, yes. But you asked did I use them as basis for my opinion, no. They involved work that I did in this process. 03:37:04 03:37:07 03:37:09 03:37:15

Q. Dr. LaMotte, under the order for expert stipulation in this case we are entitled to everything upon which you have relied or used as a basis in any way in forming your opinions. 03:37:23 03:37:27 03:37:29 03:37:31 03:37:33 03:37:35

MR. HALL:

I object to that characterization. I'm not sure I agree with it. That's your view. 03:37:37 03:37:38 03:37:39 03:37:40

MR. GRUENLOH:

Okay. 03:37:43

EXAMINATION BY MR. GRUENLOH:

Q. Is there anything else which has not been turned over to your counsel which you have relied upon in any way or used as a basis for 03:37:44 03:37:46 03:37:47 03:37:49

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any of your opinions? 03:37:51
A. As I understand that, no. My 03:37:54
answer is no. 03:37:55
Q. What do you mean as you understand 03:37:56
that? 03:37:58
A. As I understand relied upon. If I 03:37:58
write a SAS program and let's say 03:38:05
it doesn't work. And if I keep the 03:38:09
listing of that program, is that 03:38:13
information that I relied upon? In 03:38:16
my view it's not information that I 03:38:18
relied upon. If I make a run 03:38:20
attempting to look at something, 03:38:24
and it doesn't show me anything, 03:38:35
and if I keep the results of that, 03:38:35
I certainly didn't rely on that. 03:38:35
And the material that I referred to 03:38:37
is of that nature. 03:38:37
MR. GRUENLOH:
Mark, do you want me to 03:38:43
tell me what part of the 03:38:45
expert stipulation my 03:38:47
characterization of just now
you take issue with? 03:38:49
MR. HALL:

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You were trying to define the word "relied upon." You put additional words in in defining "relied upon" that are not in the court order. I think the court order says relied upon. You would have to get it out to see the exact language of it. 03:38:51 03:38:52 03:38:53 03:38:55 03:38:55 03:38:56 03:38:58 03:39:00 03:39:02

MR. GRUENLOH:

I think you're right. 03:39:04

Let the record reflect I was trying to define it because we had a problem with that definition earlier, "relied upon." I think you're right on that. 03:39:05 03:39:05 03:39:07 03:39:08 03:39:09 03:39:11

THE WITNESS:

Who is "we" who had the problem with the definition? 03:39:14 03:39:15

EXAMINATION BY MR. GRUENLOH:

Q. You and I. 03:39:18

A. Is that right? 03:39:19

Q. I thought we discussed the definition of reliance or materials 03:39:19 03:39:21

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you relied upon. In any case -- 03:39:23
A. Maybe it was. Seems like a long 03:39:27
time ago. 03:39:29
Q. Give me one second. Maybe we can 03:39:33
take a lunch break. Let me just 03:39:37
check something. 03:39:39
Does your report offer a 03:39:45
number which you believe to be the 03:39:47
damages in this case? 03:39:49
A. Definitely not. 03:39:51
Q. Does your report provide any sort 03:39:53
of quantification of the damages in 03:39:55
this case? 03:39:56
A. No. 03:39:58
Q. Does your report do an econometric 03:40:03
analysis of the state's damages in 03:40:08
this case? 03:40:09
A. No. 03:40:10
Q. Have you employed any regression 03:40:13
analysis to determine what the 03:40:14
state's damages are in this case? 03:40:15
A. I have to pars the question. As I 03:40:20
understand the question the answer 03:40:26
is no. 03:40:27
Q. Have you made any independent 03:40:38

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determination of what the damages are in this case? 03:40:40 03:40:42

A. No. 03:40:43

Q. Do you intend to make such a determination or perform such an analysis prior to trial? 03:40:45 03:40:47 03:40:49

A. I do not intend to. 03:40:51

Q. Have you ever had any discussions with the lawyers in this case, any of the experts in this case or any of the consultants in this case regarding a damage analysis or damage approach which would quantify damages aside from the one done by Dr. Harrison? 03:40:59 03:41:01 03:41:04 03:41:06 03:41:08 03:41:12 03:41:16 03:41:19

A. Have I discussed any such thing? I don't remember all parts of the question. 03:41:27 03:41:33 03:41:34

Q. Yes. It was kind of long and drawn out. 03:41:34 03:41:37

A. I haven't discussed such a thing with anyone. 03:41:37 03:41:39

Q. Have you ever seen a damage model which quantified the damages in this case which was prepared by the 03:41:45 03:41:47 03:41:49

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defendants in this case or at the direction of the defendants? 03:41:51 03:41:52

A. No. 03:41:54

Q. Have you ever seen any damage model which quantified damages in any tobacco related case which was prepared at the direction of the defendants in this case or by the defendants in this case? 03:42:01 03:42:06 03:42:07 03:42:09 03:42:11 03:42:13

A. No. 03:42:17

Q. If the defendants came to you and asked you to do a damage report quantifying the damages in this case, could you do it? 03:42:25 03:42:26 03:42:31 03:42:33

A. No. 03:42:35

Q. Why not? 03:42:36

A. There are areas required that I don't have sufficient expertise in. 03:42:38 03:42:42

Q. Which areas are you referring to? 03:42:46

A. Well, the first that comes to mind is the construction of the damage -- of the Medicaid pots, for example. 03:42:47 03:42:49 03:42:52 03:42:55

Q. Okay.

A. There's a lot of stuff in there 03:42:55

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that I don't know -- I know practically nothing about. I don't pretend to know anything about. I'm not sure I want to know anything about. It's complicated stuff. 03:42:56 03:43:00 03:43:01 03:43:04 03:43:05 03:43:07

I certainly would not attempt a full damage model knowing my limitations. 03:43:08 03:43:11 03:43:14

Q. What other areas aside from the Medicaid pots? 03:43:17 03:43:19

A. Let's see. Go back to the original question, if you could. 03:43:22 03:43:24

Q. The question was if the defendants came to you and asked you to do a damage analysis or damage report quantifying the amount of damages in this case, could you do it? 03:43:25 03:43:27 03:43:30 03:43:32 03:43:33

And I believe your answer was no because you didn't have certain specialization or areas of expertise you would need. My follow-up question to you is what areas are you referring to. 03:43:36 03:43:37 03:43:40 03:43:43 03:43:45 03:43:47

A. Okay. I mentioned one area in 03:43:49

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particular -- I'm sure there are others. 03:43:52 03:43:53

Q. Okay. 03:43:55

A. And I think the best way for me to answer that is to say that all my efforts have been involved in looking at a particular set of models. I have not attempted in any way to formulate a model for assessing damages or estimating damages. 03:43:56 03:44:00 03:44:03 03:44:07 03:44:09 03:44:16 03:44:17 03:44:19

I have not in any way attempted to formulate models to even assess whether there should be any damages. I have not looked at these -- at any questions relating to that ultimate objective of determining damages. Instead my efforts have been directed at looking at a set of procedures that one analyst devised as a part of an overall process, and I have been focused on that part. I have not attempted to build a model. I have not attempted to come up with a 03:44:21 03:44:25 03:44:29 03:44:32 03:44:36 03:44:39 03:44:42 03:44:45 03:44:47 03:44:51 03:44:57 03:45:01 03:45:12 03:45:12

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number for damages. 03:45:12
Q. I understand that. That's helpful. 03:45:12
But my specific question to you is 03:45:12
what other areas of expertise would 03:45:15
you need which you do not have in 03:45:16
order to do such an analysis 03:45:18
quantifying the damages? 03:45:20
A. I tried to answer in the way I did. 03:45:21
Q. I understand. You gave me one, the 03:45:23
Medicaid pots. I'm asking you if 03:45:26
there are others? 03:45:27
A. That comes to mind. But you see 03:45:28
the trouble is I haven't looked at 03:45:31
this from the point of view of 03:45:33
trying to come up with damages. 03:45:34
Consequently there may be areas 03:45:37
that I don't even know exist. So 03:45:39
it's not possible for me to tick 03:45:42
off a list and say I can do this, 03:45:45
this, and this, but I can't do 03:45:47
this, this, and this. That's why I 03:45:49
don't see how to answer the 03:45:51
question. 03:45:53
(Off the record.) 03:46:39
MR. GRUENLOH:

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Let the record reflect that Mr. Hall is receiving personal phone calls in this deposition. 03:46:41 03:46:41 03:46:43 03:46:45

MR. HALL:

Personal phone calls from Mike's legal assistant. 03:46:48 03:46:49

MR. GRUENLOH:

We are joking of course. 03:46:52

EXAMINATION BY MR. GRUENLOH:

Q. Dr. LaMotte, is it your testimony that you don't even know all the areas of expertise that would allow you to answer my last question, all the areas of expertise which go into constructing such a damage analysis in this case? 03:46:58 03:46:59 03:47:02 03:47:04 03:47:06 03:47:08 03:47:10

A. I think that's certainly true. 03:47:11

MR. GRUENLOH:

Take a lunch break? 03:47:19

MR. HALL:

Okay. 03:47:20

THE VIDEOGRAPHER:

Off the record at 3 hours, 43 minutes, 47 03:47:21 03:47:23

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seconds. 03:47:25

(A lunch break was taken.) 04:49:08

THE VIDEOGRAPHER:

We're back on the record 04:49:17
at 4 hours, 45 minutes, and 04:49:18
37 seconds. 04:49:20

EXAMINATION BY MR. GRUENLOH:

Q. Can you please mark this as Exhibit 04:49:23
#7 to the deposition. We will do 04:49:25
Exhibit #8 in a second so I'll hold 04:49:37
on to this. Mark that as Exhibit 04:49:40
#8. 04:49:51

Dr. LaMotte, if you would look 04:49:58
at what's just been handed to you 04:50:01
and marked as Exhibit #7 to the 04:50:03
deposition. Can you please 04:50:04
identify that for me? 04:50:06

A. This looks like a copy of my 04:50:07
report. 04:50:09

Q. Without looking through the whole 04:50:11
thing, sir, can you tell me is it a 04:50:12
true and accurate copy of your 04:50:15
report? Skim through it. 04:50:17

A. It appears to be. I don't have any 04:50:20
reason to think it is not. 04:50:25

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Q. Is this -- was Exhibit #7 written by you, sir? 04:50:27 04:50:30

A. Exhibit #7 was written by me. 04:50:31

Q. Okay. And we talked earlier that there may have been a draft of Exhibit #7. You don't have that with you today, do you? 04:50:34 04:50:39 04:50:41 04:50:46

A. That's correct. 04:50:48

Q. When did you complete that report, Exhibit #7? 04:50:50 04:50:53

A. Shortly before it was transmitted to wherever it went. 04:50:57 04:50:59

Q. End of July? 04:51:00

A. End of July. I'm guessing July 30. 04:51:01

Q. Do you plan on making any modifications or additions to this report between now and the time of trial? 04:51:06 04:51:09 04:51:11 04:51:12

A. I don't have any plans to do so. 04:51:12

Q. If you could please look at what's been marked as Exhibit #8 to the deposition. Can you identify that for me, sir? 04:51:14 04:51:16 04:51:18 04:51:19

A. Yes. This is a list -- this is a list of opinions of me, Lynn R. 04:51:20 04:51:23

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LaMotte. 04:51:29
Q. Okay. Who complied that list? 04:51:30
A. This was compiled -- I'm not 04:51:32
certain, but I believe it was 04:51:35
compiled perhaps by Bill Thompson. 04:51:39
I talked to him at one point about 04:51:44
this, but mainly with Mark Hall. 04:51:47
Q. So Bill Thompson and Mark Hall 04:51:54
compiled that with your help or did 04:51:56
they compile it alone? 04:51:59
A. My impression is that it was 04:52:01
compiled from my report. But then 04:52:02
I discussed with them these points, 04:52:08
whether they were reasonable 04:52:12
representation of my opinions, and 04:52:15
I agreed. 04:52:18
Q. It's your opinion that those points 04:52:20
on Exhibit #8 are reasonable 04:52:22
representation of your opinions in 04:52:24
this case? 04:52:25
A. As long as it's understood that 04:52:26
these can't be separated from my 04:52:27
report, the attachments to the 04:52:29
report, and the contents of the 04:52:32
disk that I submitted, all of that 04:52:34

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together. 04:52:37
Q. Well, aren't the opinions listed on Exhibit #8 a summary of the opinions listed in your report, Exhibit #7? 04:52:39 04:52:41 04:52:43 04:52:45
A. They are. 04:52:46
Q. Are there opinions embodied in Exhibit #7, your report, which are not embodied in Exhibit #8, the list of bullet opinions? 04:52:52 04:52:55 04:52:57 04:53:00
A. There's considerable more detail in my report, Exhibit #7. There's always the possibility that some item or nuance is not fully represented in the set of opinions. But these -- I'm satisfied that these represent my -- represent a summary of my opinions as represented in the report. 04:53:02 04:53:04 04:53:08 04:53:11 04:53:15 04:53:19 04:53:23 04:53:27 04:53:29
Q. So you have reviewed Exhibit #8 as compared to Exhibit #7 to determine whether all of the opinions in Exhibit #7 are represented in Exhibit #8? 04:53:31 04:53:33 04:53:34 04:53:37 04:53:40
A. I believe I have, yes. Wait. We 04:53:50

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went backwards there. I'm sorry. 04:53:50
I interpreted that question 04:53:50
backwards as meaning that 04:53:50
everything listed in Exhibit #8 04:53:52
actually represents an opinion that 04:53:53
shows up in Exhibit #7. Sorry. I 04:53:56
got it backwards. 04:53:58
The items in Exhibit #8 list 04:54:02
the major opinions in Exhibit #7. 04:54:06
There's much more discussion in 04:54:10
Exhibit #7 and thus there may be 04:54:12
some items that don't specifically 04:54:14
appear among the list of opinions 04:54:18
in Exhibit #8. 04:54:21
Q. All right. Well, do you know as 04:54:23
you sit here today whether there 04:54:24
are opinions in Exhibit #7, your 04:54:27
report, which are not expressed in 04:54:29
Exhibit #8, your bullet opinions? 04:54:30
A. It's my impression that there are 04:54:36
not in a general sense. But it's 04:54:39
certainly possible to ask questions 04:54:44
about work and analysis summarized 04:54:50
in Exhibit #7 that cannot be 04:54:55
answered by the bullet points in 04:54:57

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Exhibit #8. 04:54:59

Q. I understand. 04:55:00

Well, do Exhibit #7 and Exhibit #8 together at least summarize all of your opinions in this case? 04:55:06 04:55:08 04:55:10 04:55:11

A. It's hard to say exactly, because, again, I would agree with what I think is meant by the question, that Exhibit #8 is a reasonable summary of the opinions that I have listed in Exhibit #7. There is discussion in Exhibit #7 -- Exhibit #7 is a verbal representation of the analyses that I have performed. It's possible that you or someone else could answer questions particularly relevant to items in Exhibit #7 that in order to explore fully I would have to discuss analyses in more depth then they are actually represented in Exhibit #7. 04:55:17 04:55:20 04:55:24 04:55:28 04:55:30 04:55:33 04:55:36 04:55:40 04:55:43 04:55:46 04:55:50 04:55:52 04:55:54 04:55:59 04:56:02 04:56:04 04:56:06

Q. Well, maybe I phrased the question poorly. I'm asking now taking 04:56:06 04:56:08

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Exhibit #8 and Exhibit #7 collectively, do you have any opinions as you sit here today or do you intend to offer any opinions other than those listed on Exhibit #7, your report, and Exhibit #8, the list of your bullet opinions? 04:56:10 04:56:12 04:56:14 04:56:17 04:56:19 04:56:20 04:56:23

A. I don't intend to offer any that are not a part of the analysis described in Exhibit #7. 04:56:26 04:56:34 04:56:36

Q. I don't mean to be overrepetitive. Is it fair to say that Exhibit #8 then is a summary of the opinions that you have regarding your analysis of Dr. Harrison's model? 04:57:02 04:57:06 04:57:08 04:57:09 04:57:11

A. I think that's a fair statement. 04:57:14

Q. The only reason I ask, sir, is I would like to work from the list of bullet opinions as opposed to going through the whole 80-page report or whatever it is. 04:57:30 04:57:32 04:57:34 04:57:36 04:57:38

MR. HALL:

For the record it's not 80 pages. Did you say 80? 04:57:44 04:57:45

MR. GRUENLOH:

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I had a smile on my face when I said it, Mark. 04:57:49 04:57:51

MR. HALL:

Okay. The text is 15, and it has got some attachments. 04:57:53 04:57:55

EXAMINATION BY MR. GRUENLOH:

Q. If you would look at Exhibit #8 for me, please. The first bullet opinion on there. "Dr. Harrison's models do not establish that smoking causes or results in increased health care costs of Oklahoma Medicaid recipients and state employees." 04:57:58 04:58:00 04:58:03 04:58:04 04:58:04 04:58:06 04:58:08 04:58:12

Have I accurately read your opinion there? 04:58:15 04:58:17

A. As I followed, that looked right to me. 04:58:18 04:58:21

Q. And that represents the opinion that you hold in this case? 04:58:21 04:58:23

A. That's one opinion. 04:58:26

Q. Okay. Well, is that a flaw in Dr. Harrison's model, that he has not established that smoking causes or results in increased healthcare 04:58:29 04:58:35 04:58:39 04:58:40

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costs of Oklahoma Medicaid recipients? In your opinion is that a flaw? 04:58:43 04:58:45 04:58:47

A. How do you mean a flaw in his models? 04:58:48 04:58:50

Q. Well, do you know what the word "flaw" means? 04:58:51 04:58:53

A. Of course. 04:58:54

Q. Well, do you consider that to be a flaw? 04:58:54 04:58:56

A. You mean is it because of an error or mistake that he made which is how I would interpret flaw? 04:58:58 04:59:02 04:59:04

Q. Do you consider that to be a shortcoming of Dr. Harrison's model? 04:59:11 04:59:13 04:59:15

A. I consider that to be a -- it's my opinion as stated here. How you would characterize it as a shortcoming -- it's a characteristic in my opinion. 04:59:17 04:59:22 04:59:26 04:59:28 04:59:32

Q. But you don't believe it's a flaw or shortcoming, just a characteristic? 04:59:34 04:59:35 04:59:37

A. In a way that's judgmental. 04:59:39

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Q. Isn't that what you're doing here, making a judgment on Dr. Harrison's model? 04:59:42 04:59:44 04:59:47

A. Exactly. It's not entirely judging the model but simply identifying characteristics that it has that may cause it to be unsuitable for the purpose for which it's intended. 04:59:48 04:59:51 04:59:54 04:59:56 05:00:00 05:00:02

Q. Okay. In your opinion, is the first bullet opinion which you have listed on Exhibit #8, should that have been included in Dr. Harrison's model? Should he have established that smoking causes or results in increased healthcare costs of Oklahoma Medicaid recipients? 05:00:05 05:00:07 05:00:10 05:00:13 05:00:15 05:00:19 05:00:20 05:00:22 05:00:25

A. Well, my opinion is as it is stated there, that the models do not establish causation or result in increased healthcare costs. 05:00:26 05:00:35 05:00:35 05:00:35

Q. Okay. I am asking you if it's your opinion that they should establish that? 05:00:37 05:00:40

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A. Should for what purpose? 05:00:41
Q. For the purpose of this case? 05:00:43
A. It seems to me that -- and, again, you're asking something that is not a statistical question. The opinion is a statistical opinion and supportable as a statistical opinion that the models themselves do not establish that smoking causes or results and so on. 05:00:46 05:00:52 05:00:54 05:00:56 05:01:01 05:01:03 05:01:05 05:01:09
Q. My question to you is should they have? 05:01:12 05:01:14
A. If the -- if the purpose of the models -- now, that's why I say I have to get off into something that is sort of statistical. If the purpose of the models is to justify causing one party to pay money to another party, then if a statistical model is to be used for that purpose, and since statistical models are limited in that they can only characterize or measure association, then it seems to me that it needs to be noted that 05:01:17 05:01:21 05:01:25 05:01:27 05:01:29 05:01:35 05:01:38 05:01:43 05:01:45 05:01:49 05:01:54 05:01:55 05:01:59

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those models do not establish causation. They are limited to the extent that they can only show some measure, and to quantify that measure of association that needs to be said, and these models do not and are not adequate, sufficient, in any way. In a way they don't even address questions of causation. 05:02:01 05:02:03 05:02:06 05:02:10 05:02:13 05:02:15 05:02:21 05:02:26 05:02:31 05:02:32

Q. Okay. Well, is it your understanding that Dr. Harrison's model has attempted to prove that smoking causes or results in increased healthcare costs of Oklahoma Medicaid recipients? 05:02:33 05:02:36 05:02:38 05:02:40 05:02:42 05:02:44

A. That would be -- would require an inference on my part. I don't know. 05:02:47 05:02:49 05:02:51

Q. You don't know whether his model has attempted to show that causal link? 05:02:53 05:02:55 05:02:58

A. I do not whether he had in his mind attempting to show a causal link. 05:02:58 05:03:02

Q. Well, tell me precisely what output 05:03:14

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from Dr. Harrison's model would 05:03:18
establish that smoking causes or 05:03:21
results in increased healthcare 05:03:23
costs of Oklahoma Medicaid 05:03:25
recipients. 05:03:26
A. I don't think that the models alone 05:03:28
could establish causation. 05:03:32
Q. Is it possible for an econometric 05:03:40
model to establish causation? 05:03:43
A. Of course, I'm looking at this as a 05:03:46
statistical model, and in general 05:03:48
it is not. Causation is basically 05:03:53
a logical construct. Statistics 05:04:01
can measure association and that 05:04:03
can be linked with other things in 05:04:05
a scientific way to try to 05:04:07
establish causation, but the 05:04:10
statistical model itself simply 05:04:13
can't do it. 05:04:16
Q. So is the answer to my question can 05:04:21
an econometric model establish 05:04:22
causation, is the answer no? 05:04:26
A. I'm addressing statistical models. 05:04:28
You repeated econometric. I'm not 05:04:31
an econometrician. I can speak to 05:04:34

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the statistics involved, and that's 05:04:37
why I am limiting my response to 05:04:39
that. And a statistical model of 05:04:42
the sort employed here -- because 05:04:44
these are the only ones that I am 05:04:45
considering here -- cannot 05:04:48
establish causation. 05:04:49
Q. Well, if it's not even possible for 05:04:54
a model of the type used here by 05:04:56
Dr. Harrison to establish 05:04:59
causation, why have you listed that 05:05:00
as the first bullet opinion on 05:05:02
Exhibit #8? 05:05:04
A. Because that's a very important 05:05:05
starting point. It's important to 05:05:06
recognize that before even 05:05:09
considering these models and their 05:05:11
characteristics and their good 05:05:13
points and bad points, it's 05:05:15
important to recognize that as a 05:05:17
starting point, that that is a 05:05:19
first limitation. 05:05:21
Q. Okay. So would it be accurate to 05:05:26
say that's more than observation on 05:05:30
your part rather than a criticism 05:05:32

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or a flaw that you're pointing out that is present in Dr. Harrison's model? 05:05:33 05:05:35 05:05:37

A. That's a statement of a limitation that applies to these models. 05:05:38 05:05:40

Q. When you say "these models," you're talking about Dr. Harrison's model, correct? 05:05:42 05:05:44 05:05:48

A. Yes, I am. 05:05:48

Q. Let's look at the second bullet point on Exhibit #8. "Dr. Harrison's do not yield valid or reliable estimates of smoking-attributable expenditures." Have I read that correctly? 05:05:53 05:05:54 05:05:56 05:05:58 05:05:59 05:06:04

A. I believe you have. 05:06:05

Q. Can you define for me what you mean by the term "valid" there? 05:06:07 05:06:09

A. Valid in the sense that I use it here means estimates that can reasonably be expected to measure -- to measure something accurately, correctly. In other words, they are pointed at the right target is probably a simple 05:06:12 05:06:14 05:06:19 05:06:28 05:06:33 05:06:35 05:06:37

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way to put it. 05:06:40

Q. Okay. So Dr. Harrison's models are not pointed at the right target? 05:06:42 05:06:47

A. I have to say that this opinion represents sort of an overview of the more detailed opinions that follow so I can't really address it in isolation from other criticisms. This has to do with the validity of the model. 05:06:49 05:06:54 05:07:08 05:07:08 05:07:08 05:07:08 05:07:11

Q. I understand. 05:07:12

A. And I have listed in my report in several places points that strongly question the validity of estimates of smoking attributable expenditures from this model, and they are detailed in several places in the report. 05:07:14 05:07:16 05:07:21 05:07:24 05:07:28 05:07:29 05:07:31

Q. But by the word "valid" here you mean not pointed at the right target? 05:07:34 05:07:37 05:07:40

A. Basically I mean not pointed at the right target. 05:07:41 05:07:43

Q. What do you mean by the term "reliable" as you used it in that 05:07:46 05:07:47

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sentence? 05:07:50

A. Reliable has to do with reputability and ultimately with variability. 05:07:51 05:07:55 05:07:58

Q. Can you explain that for me? 05:07:59

A. Yes. It has to do with if I have a measuring instrument and measure something with it and then measure the same thing with it, I expect to get the same measurement. Whether the measurement is correct and whether it's measuring the characteristic I am actually interested in, I expect to get the same measurement or something very close to it. In that case, I would say that the measurement is reliable. 05:08:02 05:08:06 05:08:10 05:08:12 05:08:15 05:08:17 05:08:19 05:08:21 05:08:24 05:08:26 05:08:28 05:08:30 05:08:32

Similarly if I used that same device and measure something in different circumstances but I am measuring essentially the same something, I expect that measurement to come up with essentially the same measurement. 05:08:35 05:08:40 05:08:42 05:08:44 05:08:46 05:08:47 05:08:49

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Q. Would you expect that measurement to come up with the same measurement? In other words, you would expect it to be repeatable even if you use a different method? 05:08:54 05:08:55 05:08:57 05:08:59 05:09:01

A. To me a different method would mean a different measurement device. 05:09:07 05:09:09

Q. Well, let's take goodness of fit, for example. There's several measures of goodness of fit, are there not? 05:09:15 05:09:19 05:09:21 05:09:23

A. Yes. 05:09:24

Q. Would you expect the same output for each measure of goodness of fit, or would you expect there to be some variance between them? I'm sorry. When applied to the same set of circumstances or same set of variables? 05:09:30 05:09:33 05:09:35 05:09:39 05:09:42 05:09:44 05:09:45

A. The short answer is no. As you correctly indicate, there are several different measures of so-called goodness of fit. First, goodness of fit is sort of loosely defined and that fits in with the 05:09:46 05:09:51 05:09:54 05:09:55 05:10:00 05:10:03

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fact that there exists different measures of goodness of fit because there are different characteristics that are subsumed under this heading of goodness of fit. So the different measures measure aspects of the basic notion that we would like a model to fit together well. 05:10:07 05:10:08 05:10:10 05:10:12 05:10:15 05:10:17 05:10:19 05:10:23 05:10:26

So it's not surprising. It's like measuring height and weight. You don't expect a tape measure to accurately reproduce weight. It's two characteristics. These measures of goodness of fit are measuring different aspects of this sort of fuzzy notion of goodness of fit. 05:10:27 05:10:28 05:10:30 05:10:33 05:10:35 05:10:39 05:10:42 05:10:44 05:10:46

Q. So you would expect different outcomes if you used different goodness of fit tests? 05:10:47 05:10:48 05:10:50

A. Definitely. I would. 05:10:52

Q. Let's move on to the third bullet. "Dr. Harrison's models are approximations based on simplifying 05:10:59 05:11:01 05:11:02

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assumptions. A different set of assumptions would lead to different models which would lead to different estimates of smoking-attributed Medicaid expenses. Dr. Harrison's choices in formulating the model and coding the data have affected the results he obtained." 05:11:06 05:11:06 05:11:07 05:11:09 05:11:10 05:11:11 05:11:13 05:11:15 05:11:17

Have I read that correctly? 05:11:18

A. I think so. I didn't follow every word, but I think so. 05:11:20 05:11:22

Q. What do you mean when you say "Dr. Harrison's models are approximations based on simplifying assumptions"? Can you explain that for me? 05:11:24 05:11:27 05:11:28 05:11:31 05:11:34

A. I can. Again, to some extent there's several places in my report that relate to this particular item. 05:11:34 05:11:37 05:11:39 05:11:40

Q. I understand. 05:11:41

A. The relation that he is attempting to model by these models is the relation between personal 05:11:45 05:11:49 05:11:53

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characteristics on the one hand and in terms of the Medicaid models Medicaid expenses in various categories on the other. 05:11:56 05:12:01 05:12:03 05:12:05

Let's try to keep the discussion simple. Let's just talk about one kind of expenditure. Say hospital expense, Medicaid hospital expense. What these models are attempting to do is to take a list of personal characteristics, age, race, sex, marital status, whether they have a job, whether they own a home, what region they live in, what population density, whether they wear seatbelts, whether they are risk takers, whether they exercise regularly, whether they are pregnant, all of these sorts of things including smoking conditions. It sounds like a long list, and it's really about 16 factors in the adult models made into 43 predictor variables. And when you look at these models, they 05:12:09 05:12:11 05:12:13 05:12:16 05:12:17 05:12:19 05:12:23 05:12:27 05:12:29 05:12:31 05:12:33 05:12:36 05:12:38 05:12:39 05:12:40 05:12:43 05:12:53 05:12:53 05:12:53 05:12:55 05:12:57

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look big, but, in fact, their structure is quite simple. What they are trying to describe is a relation between a description of me as a person and the amount of Medicaid paid hospital expense that I will incur in a year. 05:13:00 05:13:04 05:13:05 05:13:08 05:13:10 05:13:15 05:13:18

The relation between my personal characteristics -- whoops -- I'm covering the microphone -- my personal characteristics and Medicaid hospital expenses incurred it seems to me -- and I have to speak intuitively here -- it seems likely to me that those are very complex relationships, and to appreciate the complexity, if we imagine among these, say, 16 factors if I counted them right, if we imagine all the possible combinations of levels of those factors. We have males and we have females. We have white and black and Hispanic. We are up to six categories right away. 05:13:24 05:13:28 05:13:30 05:13:31 05:13:33 05:13:35 05:13:38 05:13:46 05:13:48 05:13:51 05:13:53 05:13:57 05:14:00 05:14:03 05:14:05 05:14:08 05:14:10 05:14:13

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We have people ranging from age 0 to age -- I don't know -- 108 -- in yearly increments. That's 108 times 6 there. In terms of the number of the distinct categories, the distinct combinations of these characteristics, they are much, much more numerous than the population of Oklahoma. They are more numerous my guess is than the population of the U.S. if we listed all of those. 05:14:15 05:14:17 05:14:19 05:14:22 05:14:25 05:14:27 05:14:30 05:14:32 05:14:36 05:14:37 05:14:39 05:14:42 05:14:44

Again, speaking intuitively. This is a large set of combinations of conditions. They are already -- I'm speaking of only those factors identified by Professor Harrison. I'm not making any attempt to identify those myself that may have effects on Medicaid hospital expense. The number of combinations is astounding. It's very large. 05:14:47 05:14:49 05:14:51 05:14:53 05:14:57 05:14:58 05:15:01 05:15:03 05:15:05 05:15:07 05:15:11

The Medicaid hospital expenses 05:15:15

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generated by each separate combination of these characteristics if we assume -- if we assume there's a causal or even a strong or reasonable associative relationship among these -- between these -- those amounts are likely to differ with every combination. 05:15:18 05:15:20 05:15:21 05:15:24 05:15:26 05:15:28 05:15:31 05:15:33

Anything -- any model that combines these thousands and thousands of potential combinations summarizes them. For instance, putting in two terms for age, age and the square of age. When there are really 108 different ages represented, let's say. I don't know that for a fact, but there's a considerable reasoning of ages. To put in two terms in the model when the relation is likely to involve at least 100 different possible levels of this characteristic is a simplifying assumption. Any assumption that tries to connect these together, to smooth them, to 05:15:37 05:15:41 05:15:45 05:15:49 05:15:51 05:15:54 05:15:58 05:16:00 05:16:03 05:16:05 05:16:08 05:16:11 05:16:13 05:16:16 05:16:18 05:16:21 05:16:23

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condense, to summarize, is a simplifying assumption. 05:16:25 05:16:28

And so this model is based on simplifying assumptions. If a model were formulated differently -- if Professor Harrison had chosen to put in dummies for levels of age instead of linear quadratic terms, the final results, the estimated savings comparing as if to but for would be different. The ultimate results of applying these models in this situation would be different. 05:16:32 05:16:37 05:16:43 05:16:45 05:16:49 05:16:53 05:16:55 05:16:59 05:17:03 05:17:07 05:17:10 05:17:12

Q. Dr. LaMotte, is it necessary to make certain assumptions in order to complete an econometric analysis in this context? 05:17:15 05:17:18 05:17:20 05:17:23

A. In this context -- I described the situation, I believe, accurately -- if a model is to be built at all it's going to require some simplifying assumptions. Either -- I'm sorry. I need to continue. 05:17:24 05:17:29 05:17:32 05:17:36 05:17:40 05:17:46 05:17:49

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Either that or something is going -- model -- basically a model is going to have been created for each subcategory represented in the target population and that probably is not feasible. 05:17:52 05:17:58 05:18:00 05:18:04 05:18:06 05:18:08

Q. Is it your opinion based upon your intuition that Dr. Harrison has not included all of the correct assumptions needed to explain Medicaid expenses in his model? 05:18:12 05:18:14 05:18:18 05:18:19 05:18:24

A. I have not addressed that question. What I have said here is that he made assumptions. There are consequences of those assumptions. There are consequences of formulating a model this way as opposed to that way. Those have consequences. If we talk more about this -- I tried to emphasize the end result of those consequences. Those choices have consequences. Yes, some assumptions have to be made if you are going to attempt this kind of 05:18:28 05:18:32 05:18:36 05:18:41 05:18:44 05:18:46 05:18:48 05:18:50 05:18:53 05:18:56 05:19:00 05:19:04 05:19:14 05:19:14

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thing in the first place. 05:19:14
He's made assumptions. 05:19:14
Different assumptions could have 05:19:17
been made that are equally 05:19:17
defensible in my opinion, and those 05:19:21
different assumptions would have 05:19:23
led to different results. 05:19:24
Q. Well, do you have an opinion one 05:19:30
way or the other whether he has 05:19:32
used the correct assumptions? 05:19:33
A. No. I don't think -- as I 05:19:37
understand what you mean by 05:19:40
assumptions -- he's formulated a 05:19:41
model. He has actually made some 05:19:44
other assumptions in his coding 05:19:48
practices that he has described in 05:19:50
his report. And those assumptions 05:19:51
about the coding practices I do 05:19:59
believe that those are -- his 05:20:02
assumptions there are incorrect. 05:20:04
As to what factors should be 05:20:07
included in the models and in what 05:20:09
form they should appear, I have 05:20:14
made very little effort to assess 05:20:17
whether those are good assumptions 05:20:20

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or bad assumptions, whether the model as he formulates it is a good model in some sense. I do have some things to say about that. 05:20:22 05:20:24 05:20:30 05:20:33

Q. All right. 05:20:34

A. But as to which factors should be considered, I have pretty much regarded that as out of my bailiwick. 05:20:35 05:20:37 05:20:39 05:20:42

Q. Tell me why you believe Dr. Harrison had used the wrong or inappropriate coding practices. 05:20:42 05:20:45 05:20:48

A. I can -- again, these are details that I think appear in my report, and I can speak to an example here. 05:20:51 05:20:53 05:20:55

He has a practice when response in NMES is coded -- particularly I'm thinking of the minus 9 code which means did not ascertain. In several instances he -- particularly when he is defining indicative variables, yes, no variables which coded zero for no and one for yes. 05:21:05 05:21:09 05:21:12 05:21:14 05:21:17 05:21:21 05:21:25 05:21:26 05:21:29

In several of those instances 05:21:30

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he codes a minus nine as a zero, as 05:21:33
a no. He does this with marital 05:21:38
status and he does it with 05:21:39
pregnant. He does it with own 05:21:41
home, with have a job -- I forget 05:21:43
the whole list, but I think it's in 05:21:46
my report. 05:21:47

He does it with -- let me 05:21:49
think. With something called cigs 05:21:54
then. This is a particularly 05:21:58
crucial one because it's an item on 05:22:00
the self-administered questionnaire 05:22:04
in which -- I forget the exact 05:22:07
phrasing of the question -- but the 05:22:10
respondent is asked when you smoked 05:22:12
how many cigarettes a day did you 05:22:15
smoke. I forget the exact counts. 05:22:18
That's in my report. 05:22:21

Among persons who said that 05:22:24
they had ever smoked so that this 05:22:27
question is relevant, quite a 05:22:29
number of them simply did not 05:22:33
answer this question and so their 05:22:35
response was coded as minus 9 in 05:22:37
the NMES data set. Dr. Harrison 05:22:40

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coded that as a zero. 05:22:45
Q. Meaning nonsmoker? 05:22:47
A. Not meaning nonsmoker. Meaning 05:22:49
that the number of cigarettes a day 05:22:52
they said they smoked went into his 05:22:54
model as zero. Not as missing, not 05:22:57
as nonresponse, but as zero. I am 05:23:01
just talking about persons for whom 05:23:04
this question is relevant. Those 05:23:06
are persons when asked the 05:23:08
questions have you ever smoked 100
cigarettes answered yes. In other 05:23:11
words, this is often called ever 05:23:13
smokers in the data set. 05:23:16
So given they were ever 05:23:17
smokers, then this shows up as a 05:23:18
nonsensical response as a yes, I 05:23:21
did smoke at least 100 cigarettes 05:23:24
if my life but the number of 05:23:26
cigarettes a day I smoked was zero 05:23:28
which of course is nonsense. 05:23:31
Q. Let's follow this logic through, 05:23:33
and we have sort of gotten off on a 05:23:35
tangent but let's follow through 05:23:37
this. If Dr. Harrison codes them 05:23:39

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as zero, in other words a nonsmoker, when if fact they have not answered the question -- you're shaking your head. 05:23:41 05:23:43 05:23:45 05:23:48

A. I'm sorry. I don't want to interrupt but you see they appear in the models as an ever smoker, ever smoked. So they are not a nonsmoker. It's just the value of this variable, cigs then, shows up as zero when in fact that's not what is was in the data set. It was that they didn't answer the question in the data set. 05:23:49 05:23:50 05:23:53 05:23:56 05:23:58 05:24:04 05:24:08 05:24:10 05:24:10 05:24:11

Q. Okay. So the zero which Dr. Harrison applies then to that particular person goes to their smoking intensity, not to whether they, in fact, ever smoked a cigarette or not, correct? 05:24:20 05:24:22 05:24:24 05:24:27 05:24:30 05:24:32

A. This is correct. 05:24:34

Q. Tell me would that negatively affect the SAFs or positively affect the SAFs? 05:24:47 05:24:49 05:24:52

A. In many cases by coding that 05:24:53

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variable in these models as these models were fit, coding that variable as a zero as opposed to a positive number has the effect of increasing the estimated smoking attributable Medicaid expense. So it's anti-conservative whereas Professor Harrison says clearly in a couple of places that this is a conservative practice. It has consequences and in some cases those consequences are large. 05:24:58 05:24:59 05:25:02 05:25:06 05:25:11 05:25:16 05:25:28 05:25:28 05:25:28 05:25:28 05:25:30 05:25:32

Q. Well, explain to me how that can increase the SAF. If you could just go through the steps for me and explain to me how that could possibly increase the SAF. 05:25:35 05:25:39 05:25:41 05:25:43 05:25:45

A. Well, let's take it for simply one person to keep it simple. 05:25:47 05:25:52

Q. Okay. 05:25:53

A. And what we are comparing is -- Let's do it this way. Let's compare that person's estimated expense as is, and let's assume this is a smoker. A person who 05:25:55 05:25:57 05:26:01 05:26:10 05:26:14

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said he or she had ever smoked. 05:26:17
Okay? 05:26:19
Q. Okay. 05:26:20
A. And if you take the model and 05:26:22
suppose this person actually 05:26:33
smoked, say, eight cigarettes a day 05:26:35
but simply didn't answer this 05:26:40
question. 05:26:41
Q. Why don't we say a pack a day to 05:26:45
make it more realistic. I'm sorry. 05:26:47
I know it's your hypothetical 05:26:49
but --
A. Yes. It is my hypothetical. 05:26:51
Q. Go ahead. 05:26:55
A. I'm trying to be consistent with 05:26:56
the models -- 05:26:58
Q. Okay. 05:27:00
A. -- and I don't want to say 05:27:01
something that turns out not to be 05:27:02
correct, and so that's why I picked 05:27:05
eight, ten, something like that. 05:27:08
Q. Okay. Continue. I'm sorry. 05:27:11
A. Let's suppose this person if this 05:27:12
person had answered the question 05:27:15
would have answered eight or ten. 05:27:17

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Ten is a nice round number, let's say. 05:27:19 05:27:21

Q. All right. 05:27:22

A. The structure of the coefficients in these models is such that if we estimate that person's -- let's say Medicaid hospital expense -- putting in zero for this quantity, we will get a larger estimated expense than if we put in ten for this quantity. That's simply the way these coefficients are configured in some of these models. 05:27:22 05:27:24 05:27:29 05:27:33 05:27:34 05:27:39 05:27:44 05:27:47 05:27:50 05:27:53 05:27:55

In other words, the estimated Medicaid expense for this person computed with cigs then equal to zero will be greater than it is computed with cigs then equal to ten. In that case, the difference between estimated as if expense, in other words, setting all the smoking variables to zero which is going to be the same in either case, the difference between that 05:27:56 05:27:58 05:28:01 05:28:05 05:28:07 05:28:10 05:28:15 05:28:19 05:28:20 05:28:23 05:28:25

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and the estimated expense putting in zero is going to be -- now, I lose track of it. I hope you're -- 05:28:26 05:28:29 05:28:36

The estimated expense at zero is going to be greater than the estimated expense at ten. Therefore the smoking attributable expense at zero is going to be greater than it is at ten. Consequently this person's SAF is going to be greater than it should have been because a zero was substituted for something that should have been a positive number. 05:28:39 05:28:42 05:28:44 05:28:48 05:28:51 05:28:59 05:29:02 05:29:06 05:29:08 05:29:11 05:29:12

Q. All right. I take it the reason that you use ten cigarettes is because you tested that opinion using ten cigarettes? 05:29:18 05:29:20 05:29:22 05:29:25

A. I would have to look. It's in my opinion. The range of values -- the range of values for putting zero results in a greater estimated expense than putting in a positive value. That range of values, I think, is described in my 05:29:27 05:29:30 05:29:31 05:29:36 05:29:39 05:29:41 05:29:43

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report. 05:29:46
Q. Actually you have it there in front 05:29:46
you. Exhibit #7. Can you please 05:29:50
find the page where you describe 05:29:52
that range of values? 05:29:54
A. I think I can find it. 05:29:55
This is on Page 5, first, 05:30:06
second, third, fourth, appears to 05:30:09
be the fifth paragraph. 05:30:14
About midway, the net effect 05:30:18
of these two related terms is to 05:30:21
decrease the probability -- this is 05:30:26
talking just about the probit model 05:30:29
apparently -- for cigs zero -- 05:30:32
which is what I was calling cigs 05:30:34
then -- between 0 and 45.7 05:30:36
cigarettes per day. So this effect 05:30:39
shows up anywhere up to a little 05:30:41
over two packs a day. 05:30:45
And then there's another one. 05:30:56
Combined effects of these two items 05:30:58
is positive -- this is up to about 05:31:00
70 cigarettes per day. This has to 05:31:04
do with the other intensity term 05:31:06
which is cigs now. So these are 05:31:11

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examples -- a couple of examples. 05:31:15
And those ranges can be 05:31:36
determined by looking at the 05:31:37
coefficients in each of the models. 05:31:40
Q. The opinion that we are discussing 05:31:44
right now, is that the opinion 05:31:46
that's expressed in the 10th bullet 05:31:47
point of Exhibit #8? 05:31:50
A. Yes. 05:31:59
Q. Okay. 05:32:00
A. As I said when you first asked 05:32:06
about number -- point number three 05:32:08
which is what we were discussing, I 05:32:10
tried to point out that that 05:32:25
is -- that relates to several 05:32:25
places in the report including this 05:32:25
particular place. 05:32:25
Q. I understand. And now we have 05:32:25
skipped ahead even though I didn't 05:32:27
mean to do it, but it makes more 05:32:28
sense to do it this way. 05:32:30
Exhibit #10 reads, "A 05:32:32
consequence of Dr. Harrison's 05:32:33
method of estimating
smoking-attributable expenses is 05:32:37

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that for most sets of individual characteristics, there exists an as-if set of positive smoking characteristics that would result in lower estimated Medicaid expenses than the never-smoked estimated expenses." 05:32:37 05:32:40 05:32:41 05:32:44 05:32:45 05:32:47 05:32:49

Have I correctly read that opinion? 05:32:51 05:32:52

A. I believe you did. 05:32:53

MR. HALL:

Let me clarify. I think when you started the question, you started with Exhibit #10. 05:32:55 05:32:55 05:32:56 05:32:58

MR. GRUENLOH:

I'm sorry. Bullet number 10. 05:33:00 05:33:03

MR. HALL:

Just wanted to clarify. 05:33:04

MR. GRUENLOH:

Thank you. 05:33:09

EXAMINATION BY MR. GRUENLOH:

Q. What you did there is took Mrs. X out of the database and you lowered 05:33:10 05:33:12

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some of her smoking variables and you raised some of the other smoking variables in order to get your determination there, correct? 05:33:14 05:33:17 05:33:18 05:33:21

A. As an example, that's right. 05:33:22

Q. How many people did you check as an example? 05:33:24 05:33:26

A. Oh, not that many. I mean, all have you to do is look at the coefficients to see that that happens. 05:33:27 05:33:28 05:33:30 05:33:32

Q. Well, how many did you check, do you recall? 05:33:34 05:33:36

A. Oh, I probably looked at -- I don't know. Maybe a dozen or so. 05:33:36 05:33:40

I might note that there's a spread sheet included on the disk that does that. I looked -- using it, I looked also at sets of characteristics not necessarily corresponding to a particular person. A particular person in the data set. 05:33:42 05:33:47 05:33:48 05:33:52 05:33:56 05:33:57 05:33:59 05:34:03

Q. Can you please mark this Exhibit #9? 05:34:16 05:34:18

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Doctor, I am handing you what's been marked Exhibit #9 to the deposition. Let me represent to you that the document contains directories of some of your computer files which were included with your expert report. 05:34:27 05:34:29 05:34:30 05:34:33 05:34:35 05:34:37 05:34:40

Does that appear as if that is what that, in fact, is? 05:34:43 05:34:47

A. Yes. It appears -- I have never seen it in exactly this form. But it's just a matter of formatting, I think. 05:34:50 05:34:51 05:34:53 05:34:56

Q. What I would like for to you do is in your previous answer you told me that you listed in your spread sheets or in your computer programs a program which would enable to us do this. I am talking about the 10th bullet opinion on Exhibit #8. Can you identify for me on Exhibit #9 which of those computer programs does that function? 05:34:56 05:34:59 05:35:00 05:35:05 05:35:07 05:35:11 05:35:13 05:35:16 05:35:18 05:35:21

A. Yes. It's the only spread sheet program on there. It's -- if you 05:35:24 05:35:27

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look on the second page, directory listing of programs in the top bunch. Look in the far right where you see names of files. It's GETSAF.WB3. 05:35:33 05:35:37 05:35:39 05:35:42

Q. You performed that function, you said, on about a dozen of the NMES participants in the NMES database? 05:35:53 05:35:54 05:36:03

A. I took several examples just to look at them as sets of values, sets of combinations. I made up some myself. 05:36:05 05:36:08 05:36:10 05:36:12

Q. Have you reported each of those examples in your report? 05:36:14 05:36:16

A. No. 05:36:18

Q. Why not? 05:36:19

A. I quoted one example. The program is there. So anybody who wants to can do the same thing with any other example. 05:36:22 05:36:25 05:36:28 05:36:32

Q. You didn't do it with everybody in the NMES database, did you? 05:36:32 05:36:34

A. Not on this program, no. 05:36:36

Q. Well, have you ever done it? 05:36:38

A. Well, it's implicit -- there's 05:36:40

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another item mentioned in the report in which I mentioned changing the as if smoking values to something -- I forget the exact levels now -- and running through and computing the SAFs over the whole data set. So that implicitly does this sort of computation for everyone in the data set. I didn't look at them. 05:36:42 05:36:43 05:36:46 05:36:51 05:36:53 05:36:55 05:36:58 05:37:03 05:37:05 05:37:07

Q. What computer program are you referring to? 05:37:08 05:37:09

A. Well, that one is the -- I guess I have to describe this set of programs. There's one set that generates the data sets. That's the one that's in the subdirectory called data sets. We don't need to talk about that for purposes of answering this question. 05:37:10 05:37:14 05:37:18 05:37:21 05:37:22 05:37:25 05:37:27 05:37:29

There's another set of programs and I think -- Let me see if I can find the description here. The second paragraph on the first page of Exhibit #9 there are three 05:37:31 05:37:32 05:37:36 05:37:39 05:37:40

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programs that fit the models, compute SAEs and compute SAFs for the adult and children models. Their names are listed there. They are set up to be flexible and easily modified. In particular there are switches that can be set to use only Medicaid equal one cases or all cases, compute SAEs for all persons, use -- so on. 05:37:42 05:37:46 05:37:47 05:37:49 05:37:51 05:37:53 05:37:54 05:37:56 05:37:59 05:38:02

They are set up also in such a way that the as if conditions can easily be changed. It's that set of programs that is set up to be modified so that those can be done. 05:38:17 05:38:17 05:38:17 05:38:17 05:38:20

Q. Okay. Let's go off the record to change the tape. 05:38:23 05:38:25

THE VIDEOGRAPHER:

Off the record at 5 hours, 34 minutes, 42 seconds. 05:38:26 05:38:28 05:38:30

(Off the record.) 05:39:24

THE VIDEOGRAPHER:

Back on the record at 5 hours, 35 minutes, and 42 05:39:24 05:39:27

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seconds. 05:39:30

EXAMINATION BY MR. GRUENLOH:

Q. Let's go back to the example which we were just talking about listed on Page 5 of your report. 05:39:34 05:39:36 05:39:38

Again, what you did there is you lowered some of the smoking variables and you increased some of the other smoking variables, correct? 05:39:44 05:39:45 05:39:46 05:39:48 05:39:50

A. Where are you referring to here? 05:39:52

Q. Same thing we were talking about before we changed the tape. Fifth paragraph which you talked about before. 05:39:54 05:39:55 05:39:58 05:40:00

A. Okay. This is not talking about a particular example. This is talking about the coefficients in the model. 05:40:01 05:40:03 05:40:04 05:40:06

Q. But what you did there is you lowered some of the values and you raised some of the other values. And we are talking about smoking values. Correct? 05:40:08 05:40:09 05:40:11 05:40:12 05:40:14

A. It's not quite correct. What I 05:40:18

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am -- what I have said there is that if you look at the two terms in the model involving cigs then and cigs then squared, the coefficient of the linear term is negative, the coefficient of the quadratic term is positive. 05:40:20 05:40:22 05:40:24 05:40:29 05:40:34 05:40:35 05:40:37

This has the effect that for some range of positive values of cigs then, the part of the model due to those two terms is less than zero whereas the part of the model due to those two terms when you put in cigs then equal to zero is zero. 05:40:41 05:40:44 05:40:48 05:40:53 05:40:58 05:41:01 05:41:03

This is a little technical, but what it means is that the part of the model having to do with cigs then is zero at cigs then equal to zero, goes down for a while -- this is estimated expense -- goes down for some positive values, then comes back up, and then it begins to show positive increments. This has the effect that I described there. 05:41:08 05:41:10 05:41:12 05:41:16 05:41:24 05:41:27 05:41:29 05:41:32 05:41:34 05:41:41 05:41:42

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Q. Okay. When you checked for that effect, and in fact you cited as a specific example in your report, but when you checked for that effect, you lowered some of the smoking variables, and at the same time you raised some of the other smoking variables, correct? 05:41:43 05:41:45 05:41:50 05:41:52 05:41:54 05:41:56 05:41:58 05:42:00

A. We need to speak in terms of a specific example then because that's not what is being addressed here. I don't have to check an example to see this. This is a mathematical fact. 05:42:02 05:42:04 05:42:05 05:42:07 05:42:08 05:42:11

Q. Well, did you ever lower all of the smoking variables? 05:42:15 05:42:16

A. The Harrison procedure zeros out all of the smoking variables in computing estimated expenses under as if or but for conditions. That's a part of the computation. So to ask whether I lowered smoking variables, I have to answer yes but that's simply a part of the Harrison computations. If I'm 05:42:20 05:42:26 05:42:28 05:42:31 05:42:34 05:42:37 05:42:40 05:42:44 05:42:45

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going to reproduce his computations, then for each person in the data set, I have to compute an estimated expense as is, and I have to compute an estimated expense as if. 05:42:48 05:42:49 05:42:51 05:42:53 05:42:57 05:42:59

And in the as if, the so-called counter factual that Harrison uses, all those variables are zeroed out. I have substituted for that another set of conditions, and this, of course, is going to -- if we take a person who is a smoker and we are going to do this comparison, then instead of zeroing them out, I put in positive values. 05:43:00 05:43:03 05:43:06 05:43:09 05:43:11 05:43:15 05:43:17 05:43:20 05:43:22 05:43:26

Q. For some of them? 05:43:30

A. Just to look at them as examples, as the one example I mentioned here in my report. And that results in a -- in a lower estimated expense than zeroing them out. That's what these models do. 05:43:31 05:43:33 05:43:36 05:43:40 05:43:47 05:43:53

Q. Okay. The specific example you're speaking of, which paragraph on 05:43:56 05:43:57

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Page 5 your report is that reported in? 05:44:00 05:44:03

A. This is the next paragraph that begins "the particular features." 05:44:03 05:44:05

Q. Okay. Now, you have, in fact, added a positive value you said to one of those smoking variables. Is that correct? 05:44:18 05:44:21 05:44:24 05:44:26

A. I believe that's correct. In the as if condition. So we are comparing in this example and this is simply to illustrate this point, comparing what happens to this person, that person's estimated expenses are computed as is and you get, you know, 41, 40.82. 05:44:26 05:44:29 05:44:33 05:44:36 05:44:37 05:44:41 05:44:43 05:44:49

Q. Okay. I understand what you have done. But this is my question to you, and I think it's very simple. 05:44:53 05:44:54 05:45:04

Have you ever taken that example and lowered all of the smoking variables by the same number, whatever that number may be, lowered all of the smoking variables to see what the result 05:45:04 05:45:04 05:45:04 05:45:07 05:45:08 05:45:10

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would be? Have you done that? 05:45:12
A. Let me see if I understand the 05:45:13
question. 05:45:15
In her case -- you see, we 05:45:24
started all of this by talking 05:45:25
about this coding problem. In her 05:45:28
case -- a-ha. Okay. This person 05:45:30
said she smoked 70 cigarettes a day 05:45:37
both then and now. And to 05:45:41
illustrate this point, I compared 05:45:45
the estimated expenses for her 05:45:48
zeroing out all smoking variables 05:45:53
on the one hand which is standard 05:45:56
procedure in this process, and then 05:45:59
I set cigs then at 25, cigs 1 at 05:46:04
10, passive cigarettes to 31. 05:46:10
Passive P cigs one. I forget what 05:46:15
Harrison's name for it is. 05:46:20
Q. So you changed each of those 05:46:21
variables by a different amount? 05:46:23
A. Changed each of them by different
amounts, that's right, to 05:46:26
illustrate that when you do with 05:46:26
these positive levels of smoking 05:46:29
according to this model, you get 05:46:31

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estimated expenses -- I see, yes. 05:46:33
Which is a bit less than her 05:46:40
estimated expense as a never 05:46:45
smoker. 05:46:47
Q. And my question to you is -- with 05:46:49
this example specifically, and in 05:46:50
order to illustrate my question, 05:46:53
did you ever take Mrs. "X" here and 05:46:54
instead of changing each of those 05:46:58
smoking coefficients by a different 05:47:00
number, just change each of them 05:47:02
say from 70 down to 30, lower each 05:47:04
of the smoking variables? 05:47:07
A. No. Because that's not the point I 05:47:09
was trying to illustrate. 05:47:13
Q. Okay. But did you ever do that? 05:47:14
A. Not that I recall. 05:47:15
Q. Do you know what the result would 05:47:17
be if you did that? 05:47:19
A. No idea. 05:47:20
Q. We got off on quite a tangent 05:47:42
there. 05:47:45
Let's go back to the third 05:47:51
bullet opinion listed on Exhibit 05:47:53
#8. 05:47:55

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Can you list for me as you sit here today each of the assumptions which you believe Dr. Harrison made in his model which are in your opinion incorrect? 05:47:59 05:48:01 05:48:04 05:48:05 05:48:08

A. I don't believe I said any were incorrect. 05:48:13 05:48:15

Q. Okay. Inappropriate? 05:48:16

A. I don't think I said any were inappropriate. 05:48:18 05:48:20

Q. Is it your opinion that any of the assumptions made by Dr. Harrison in his model are either incorrect or inappropriate? 05:48:28 05:48:31 05:48:34 05:48:36

A. I -- in this point I addressed the -- basically the form of the model and also assumptions that he made in his coding practices. 05:48:37 05:48:40 05:48:42 05:48:47

Q. I understand. 05:48:51

A. I think that the assumptions implicit in his coding practice -- practices -- were inappropriate. 05:48:52 05:48:55 05:48:57 05:48:59

Q. Okay. And the coding practices you're referring to are what we 05:49:01 05:49:03

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just discussed in the NMES database? 05:49:05 05:49:09

A. That's true. 05:49:10

Q. You have given the opinion that Dr. Harrison's model is based upon simplifying assumptions? 05:49:10 05:49:12 05:49:14

A. That's correct. 05:49:17

Q. And my question to you is aside from those coding practices, tell me which of those assumptions are incorrect or inappropriate. Can you tell me as you sit here today? 05:49:18 05:49:22 05:49:23 05:49:26 05:49:27

A. I made very little effort to assess whether they were correct. I simply assessed characteristics of these models. 05:49:29 05:49:32 05:49:38 05:49:39

Q. Did you ever run Dr. Harrison's model? 05:49:40 05:49:43

A. Did I ever run -- 05:49:44

Q. Did you ever run Dr. Harrison's model from start to finish? 05:49:45 05:49:48

A. The output has been entered as an exhibit here, yes. 05:49:50 05:49:53

Q. That's the result of you running Dr. Harrison's model from start to 05:49:54 05:49:55

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finish? 05:49:57
A. I believe that's correct. 05:49:58
Q. Did you ever place in what you 05:49:59
believe to be the correct 05:50:01
assumptions in place of Dr. 05:50:02
Harrison's assumptions? 05:50:04
A. No, because I haven't tried to 05:50:06
build a model. I haven't tried to 05:50:08
formulate a model that would in 05:50:11
some sense be correct. 05:50:13
Q. Well, is it your opinion that an 05:50:20
econometrist in formulating an 05:50:22
econometric model cannot make 05:50:23
choices based upon their 05:50:26
professional expertise? 05:50:28
A. Anyone formulating any model has to 05:50:30
make choices. 05:50:33
Q. Let's move on to bullet number 05:50:38
four. 05:50:40
"Substantial numbers of 05:50:45
records of expenses and sources of 05:50:46
payments in NMES were imputed 05:50:47
within NMES. Dr. Harrison's 05:50:50
estimated Medicaid SAFs are 05:50:54
computed from data that are mostly 05:50:56

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made up." 05:50:59
Have I read that correctly? 05:50:59
A. That's correct. 05:51:02
Q. When you say that Dr. Harrison's SAFs are made up from data that are mostly made up, you're referring to imputation? 05:51:03 05:51:04 05:51:16 05:51:16
A. Correct. 05:51:16
Q. You already said today that imputation is a science that is accepted by economists and statisticians, have you not? 05:51:16 05:51:18 05:51:19 05:51:21
A. Maybe tolerated is the better term. 05:51:23
Q. I think your exact words were "widely used, if not widely accepted"? 05:51:25 05:51:27 05:51:29
A. That's true, too. I didn't imply to any judgement that they are always good to do. Simply they are widely used. 05:51:30 05:51:31 05:51:33 05:51:36
Q. Is it your opinion that it's widely used but it's not widely accepted? 05:51:38 05:51:40
A. I think where it's used it's accepted as a necessary evil. 05:51:43 05:51:46
Q. A necessary evil? 05:51:48

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A. A necessary evil. Persons will at times not respond to all items on a questionnaire. 05:51:50 05:51:54 05:51:57

Q. Well, what is Donald Rubin's area of expertise? 05:52:02 05:52:04

A. One of his several areas of expertise is in imputation. 05:52:05 05:52:06

Q. Do you believe Dr. Rubin practices then a necessary evil, is that how you would characterize his area of expertise? 05:52:13 05:52:15 05:52:18 05:52:20

A. In that sense I think that -- yes, that would be my assessment. I won't try to speak for other statisticians or I certainly wouldn't try to speak for Professor Rubin. 05:52:21 05:52:24 05:52:26 05:52:28 05:52:30 05:52:32

Q. Do you believe Dr. Rubin's area of expertise is in making things up? 05:52:32 05:52:36

A. There's not much way to get around that. 05:52:38 05:52:40

Q. The fifth bullet on Exhibit #8 reads, "In certain places Dr. Harrison's computer code is inconsistent with his description 05:52:55 05:52:58 05:52:59 05:53:01

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in his report and contains numerous errors." 05:53:03 05:53:05

Can you please list for me each instance where you believe his code is inconsistent and contains numerous errors? 05:53:08 05:53:10 05:53:11 05:53:14

A. I'm not sure that I have the list in my memory. 05:53:16 05:53:17

Q. Is that -- would that list be reported in Exhibit #7, your report? 05:53:19 05:53:21 05:53:22

A. It is not. 05:53:23

Q. Is that list reported in any of the spread sheets or any of the programs that are listed on Exhibit #9? 05:53:26 05:53:28 05:53:29 05:53:32

A. It's implicit in my SAS programs but not listed explicitly, because in order to reproduce his results I had to reproduce his errors. 05:53:35 05:53:39 05:53:42 05:53:44

Q. Can you point me towards anywhere where you have made a list of the numerous errors in Dr. Harrison's code? 05:53:49 05:53:52 05:53:54 05:53:57

A. I can't point you to an exhaustive 05:53:57

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list. I could probably remember a few at this point. 05:54:02 05:54:07

Q. Well, if you make that representation in your report, don't you think it would be important to list the errors which you're referring to? 05:54:11 05:54:14 05:54:15 05:54:17 05:54:21

A. I'm prepared to go through and point them out. 05:54:23 05:54:26

Q. How would we do that? Would we look at Dr. Harrison's report? 05:54:29 05:54:31

A. Yes. This could be time-consuming because it means going back to the code. I think I can do it in a reasonable amount of time, but, you know, on the order of a few hours. 05:54:33 05:54:36 05:54:40 05:54:41 05:54:43

Q. But you haven't done that to date? 05:54:45

A. No. I have a sort of a little partial list. 05:54:47 05:54:48

Q. Where is that? 05:54:50

A. I think I have got it with me somewhere here. I have got -- it's on a little yellow piece of paper somewhere. I have few of them here. 05:54:51 05:54:53 05:54:57 05:55:02 05:55:04

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Q. Can I see that, please? Thank you. 05:55:04
Each of the things listed on 05:55:17
this yellow sticky tab are in your 05:55:19
opinion errors in Dr. Harrison's 05:55:24
code? 05:55:25
A. Either inconsistency with his 05:55:26
description or an actual error. I 05:55:28
tried to avoid really little picky 05:55:30
things. 05:55:33
Q. You said this is not a complete 05:55:33
list though, correct? 05:55:35
A. I can't certify that it's a 05:55:36
complete list. 05:55:38
Q. Have you ever done any other list 05:55:39
of the inconsistencies in Dr. 05:55:41
Harrison's code aside from this 05:55:44
one? 05:55:45
A. No. 05:55:46
Q. I'm not exactly sure how we want to 05:55:47
mark this. 05:55:49
MR. HALL:
You want to stick the 05:55:59
sticky on a blank piece of 05:56:00
paper and make it an 05:56:02
exhibit? 05:56:03

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MR. GRUENLOH:

That's probably the best if somebody has a blank piece of paper. Mark to the rescue. 05:56:05 05:56:06 05:56:08 05:56:09

THE WITNESS:

But if possible at some time I would like a copy of that. 05:56:10 05:56:12 05:56:13

MR. GRUENLOH:

You will get copies of all of this stuff if you so request them. 05:56:14 05:56:16 05:56:18

Let the record reflect that I marked as Exhibit #10 Dr. LaMotte's list of the instances in which Dr. Harrison's code contains errors. 05:56:32 05:56:32 05:56:35 05:56:37 05:56:38 05:56:40

MR. HALL: 05:57:04

Maybe at a break I can shoot a copy here at the hotel so you can have one. 05:57:05 05:57:07 05:57:08

THE WITNESS:

Good.

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EXAMINATION BY MR. GRUENLOH:

Q. Bullet number 6 on Exhibit #8 reads, "Dr. Harrison's models fit the data very poorly resulting in very imprecise estimates of individual Medicaid expenses and unstable models where data errors can produce substantially different results." 05:57:14 05:57:16 05:57:17 05:57:19 05:57:21 05:57:23 05:57:27 05:57:28

Can you tell me generally what you mean when you say Dr. Harrison's models fit the data poorly? 05:57:30 05:57:33 05:57:34 05:57:36

A. Yes. The place where it's easiest to see is in the log linear models. We talked about the much abused statistic R squared earlier today. But that's a good first place to look. R squares for these models are typically quite low. On the order of, oh, 15 to 30 something percent. 05:57:39 05:57:41 05:57:54 05:57:54 05:57:56 05:57:56 05:57:58 05:58:07 05:58:10

Q. I'm sorry? What did you just say? 05:58:12

A. The R squares -- if I recall correctly -- and we can look up the 05:58:14 05:58:17

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numbers to be precise. As I recall 05:58:19
they are on the order of around 15 05:58:21
percent up to somewhere in the 30 05:58:24
percents. 05:58:26
Q. I think you reported that on Page 3 05:58:26
of Exhibit #7 which is your report. 05:58:30
A. May be. 05:58:32
Q. Why don't you look at that and tell 05:58:33
me if that's correct. 05:58:35
A. That's correct. 05:58:36
Q. I think it's the second paragraph 05:58:37
which begins, "for the log linear 05:58:39
part of the adult Medicaid." Is 05:58:41
that correct? 05:58:43
A. Yes. 05:58:43
Q. It's your opinion that the R 05:58:52
squared values reported in this 05:58:55
second paragraph are too low? 05:58:56
A. In my opinion they are quite low 05:58:59
and they indicate that the model 05:59:02
fits the data poorly. 05:59:05
Q. Is there some text or authority 05:59:11
which reports a basis for 05:59:13
determining whether R squared 05:59:16
values are low or too low? 05:59:18

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A. No. Like most things, I guess that's in the eye of the beholder. 05:59:21 05:59:23

Q. You being the beholder? 05:59:26

A. In this case. 05:59:28

Q. Is Dr. Harrison's model a cross-sectional model or a longitudinal model? 05:59:34 05:59:37 05:59:38

A. It's a cross-sectional model. 05:59:40

Q. Can you tell me what you believe to be acceptable R squared values for a cross-sectional analysis such as this? 05:59:43 05:59:45 05:59:47 05:59:49

A. In order to answer that, I tried to say each time we talked about R squared, that's not the be all and end all of goodness of fit, and that's why I included Table 1, a random sample of 100 cases, to illustrate how these models estimate Medicaid -- I think these examples in terms of Medicaid hospital expenses so you can look at it case by case and see, and R squared really is just sort of an overall indication. 05:59:50 05:59:53 05:59:56 05:59:58 06:00:00 06:00:02 06:00:05 06:00:09 06:00:13 06:00:15 06:00:16 06:00:19 06:00:23

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Q. Well, you just said when you look at it case by case so you can see. What do you mean by that? 06:00:24 06:00:26 06:00:29

A. So that you can see that these models predict individual Medicaid hospital expenses poorly. 06:00:30 06:00:32 06:00:36

Q. Is it your understanding that that's what Dr. Harrison's model is attempting to do, calculate individual Medicaid expenses? 06:00:38 06:00:39 06:00:42 06:00:44

A. The models are used in two ways, in two parts. And one is to -- one part is estimated medical expense of the various kinds. 06:00:46 06:00:52 06:00:59 06:01:03

And the other part is in computing the amount of expense attributable to smoking. Smoking attributable expense. That requires estimating individual expenditures and the difference between estimated expenditure for an individual and estimated expenditures zeroing out the smoking variables. 06:01:05 06:01:07 06:01:10 06:01:17 06:01:18 06:01:20 06:01:23 06:01:27 06:01:28 06:01:31

So it seems to me that the 06:01:33

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ability of these models to estimate individual expenses is for both reasons of central importance to his whole argument, his whole development. 06:01:36 06:01:39 06:01:42 06:01:46 06:01:49

Q. Well, was Dr. Harrison attempting to estimate probable Medicaid expenditures for a population in aggregate or was he trying to do it for each individual in the NMES database? 06:01:54 06:01:57 06:02:02 06:02:05 06:02:07 06:02:10

A. You're asking me to assess what is -- what was in his mind. 06:02:11 06:02:16

Q. Based upon your review of his report. 06:02:18 06:02:20

A. In his report he mentions in at least one place -- and I seem to recall it's in more than one place -- he seems to emphasize the need to estimate individual expenses. So the emphasis, I believe, is his. 06:02:21 06:02:24 06:02:25 06:02:27 06:02:31 06:02:33 06:02:37

Q. The emphasis meaning? 06:02:42

A. On estimating individual expenses. 06:02:44

Q. Okay. So it's your opinion that 06:02:47

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Dr. Harrison placed emphasis upon estimating individual Medicaid expenses in the NMES database? 06:02:51 06:02:57 06:02:58

A. It's my impression that he stressed that. 06:03:02 06:03:04

Q. And based upon that, you believe that's, in fact, what he intended to do, estimate individual Medicaid expenses as opposed to estimated expenses of the Medicaid population? 06:03:06 06:03:09 06:03:12 06:03:13 06:03:15 06:03:16

A. Well, I know what he did with those numbers. I'm taking as I said -- I'm taking the stress on as an essential step estimating individual expenses. 06:03:17 06:03:18 06:03:20 06:03:25 06:03:27

Q. Okay. Based upon that emphasis that you believe he put on that, it's your understanding and your opinion that what he was trying to do was estimate individual Medicaid expenditures? 06:03:28 06:03:30 06:03:34 06:03:36 06:03:37 06:03:39

A. That goes beyond what I said. He stressed as I said -- I think in at least one place, possibly more than 06:03:41 06:03:48 06:03:51

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one -- that the need to estimate individual expenses. It's clear that that step is an essential part of his procedure. As to indications of how important he regards that step, I have only his emphasis. 06:03:53 06:03:56 06:04:00 06:04:03 06:04:16 06:04:16 06:04:16

Q. Okay. Well, my original question was is it your opinion that Dr. Harrison's intent in his model based upon your review of the model was to estimate individual expenditures. Now, if you don't have an opinion on it, one way or the other definitively, that's fine, you can just tell me that. But that's what I am asking you. Can you answer that question, sir? 06:04:16 06:04:16 06:04:19 06:04:21 06:04:22 06:04:24 06:04:25 06:04:27 06:04:29 06:04:31 06:04:33

A. You're asking was his intent to estimate individual expenses? 06:04:39 06:04:43

Q. That's right. Based upon your review of the model. 06:04:47 06:04:49

A. In order to do the process you have to estimate individual expenses. Thus in order to answer your 06:04:50 06:04:52 06:04:57

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question given that he went through the process and without regard for any emphasis that he may have put on estimating individual expenses, his intent apparently -- and I'm making an inference -- was to go through this model to get some numbers out of the other end. Therefore since computing individual expenses is an integral part of that process, I have to infer that his -- that a part of his intent -- in other works, that he did intend to estimate individual expenses because he did estimate them. 06:05:00 06:05:01 06:05:04 06:05:06 06:05:08 06:05:11 06:05:13 06:05:15 06:05:17 06:05:20 06:05:22 06:05:25 06:05:28 06:05:29 06:05:33 06:05:34

Q. Understanding that Dr. Harrison's model is a cross-sectional model, is it your opinion that the R squared values which you reported here are too low? 06:05:46 06:05:48 06:05:51 06:05:53 06:05:55

A. It's my opinion that any model whether it be cross-sectional, any kind of regression model that has an R squared of 14 percent is a 06:06:00 06:06:04 06:06:06 06:06:09

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very poor fit. 06:06:11
Q. What is 14 percent? That's the 06:06:12
average of all of the R squareds 06:06:14
that you came up with? 06:06:16
A. 14 percent is for the log linear 06:06:18
part of the adult Medicaid hospital 06:06:21
expense model. Second paragraph, 06:06:23
Page 3. 06:06:25
Q. It's your opinion that for Dr. 06:06:26
Harrison's cross-sectional model, 06:06:27
the R square value of 14 percent is 06:06:30
too low? 06:06:33
A. In my opinion -- you know, you 06:06:33
never say never -- but I can't 06:06:38
imagine a situation using a 06:06:41
multiple regression model in which 06:06:44
I would be content with an R 06:06:47
squared of 14 percent. 06:06:50
Q. And have you relied upon any 06:06:56
authority for that or is that just 06:06:58
your intuition? 06:07:01
A. You mean can I quote somebody as 06:07:03
saying there's a magic cutoff? No. 06:07:05
Q. Look for me, if you would, at the 06:07:29
third paragraph on Page 3 of your 06:07:31

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report. As I understand what you're doing here is a root error mean squared goodness of fit test. Is that correct? 06:07:34 06:07:42 06:07:50 06:07:52

A. Well, I'm not really testing anything there, but simply illustrating the minimal extent of prediction intervals. 06:07:53 06:07:56 06:07:58 06:08:02

Q. You are using the root error mean square, is that a method or technique? What's the proper word for me to use? 06:08:05 06:08:07 06:08:09 06:08:11

A. That's a -- I'm sorry. I'm trying to think of a proper word. 06:08:12 06:08:15

Q. Let's just do it this way. How would you characterize what you have done with the root error mean square there? 06:08:19 06:08:21 06:08:22 06:08:25

A. I have simply illustrated what would happen if you set out to construct prediction intervals on Medicaid expenses. 06:08:26 06:08:29 06:08:31 06:08:33

Q. With the use of root error mean square? 06:08:34 06:08:36

A. That's a part of the process. It's 06:08:36

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a part of the statistical process 06:08:41
that is necessary in order to 06:08:43
construct such as interval. I 06:08:45
would be glad to say more about it 06:08:47
but -- 06:08:54

Q. I had intended to ask you more 06:08:55
about it but you might lose me. 06:08:57
Let's move on from the root error 06:09:00
mean squared method. 06:09:03

A. That's fine. 06:09:05

Q. Are you familiar with the Wald 06:09:08
test? W-A-L-D, Wald test? 06:09:10

A. I'm familiar with various settings 06:09:13
for Wald tests, and I know in 06:09:16
general what a Wald test is and how 06:09:21
it's constructed. 06:09:25

Q. Okay. 06:09:27

A. And some specific uses of Wald 06:09:28
tests I might not be able to give 06:09:31
you the exact formulation of it. 06:09:33

Q. Now Dr. Harrison used a Wald test 06:09:43
to test for goodness of fit in his 06:09:45
model, correct? 06:09:47

A. He used that in the probit models. 06:09:48

Q. And I believe he actually referred 06:09:53

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to it as the joint hypothesis test. 06:09:55
A. I believe so. There's some Wald statistics that show up for individual coefficients as well. 06:09:58 06:10:00 06:10:02
Q. Let's refer to his Wald test as the joint hypothesis test so we know what we are both talking about. 06:10:03 06:10:05 06:10:09
A. Let me make sure that we agree what we are talking about, because I believe you mean for the whole model, testing the whole model. 06:10:10 06:10:13 06:10:16 06:10:17
Q. That's right. 06:10:20
A. And it probably appears on the first page of -- he doesn't use SAS. But probably appears on the first page of each of the probit models in SAS output. 06:10:21 06:10:23 06:10:26 06:10:28 06:10:30
Could you hand me that, Mark? 06:10:32
MR. HALL:
6? 06:10:43
THE WITNESS:
Yes. Let me look at that. 06:10:43 06:10:43
In the SAS output it's not labeled as a Wald test. 06:10:43 06:10:43

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It's labeled as a chi-square test, but that's a Wald statistic. For the individual coefficients, they are labeled Wald chi-squares. But in any case, for the whole model, yes. I think I understand. 06:10:47 06:10:50 06:10:53 06:10:54 06:10:55 06:10:58 06:10:59 06:11:01

EXAMINATION BY MR. GRUENLOH: 06:11:04

Q. You have got Dr. Harrison's report with you, don't you? 06:11:04 06:11:06

A. Yes. 06:11:07

Q. Why don't you take that and turn to Page 48? 06:11:08 06:11:11

A. Of? 06:11:13

Q. Of 51. 06:11:15

Are you there? 06:11:35

A. I'm there. 06:11:35

Q. The Wald tests or the joint hypothesis test is, in fact, what he has reported in Footnote 41 on Page 48 of 51, correct? 06:11:36 06:11:38 06:11:40 06:11:44

A. I will have to look at it to see. Just a second. 06:11:48 06:11:50

Q. Take a minute and we will go ahead 06:11:51

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and mark it Exhibit #11. 06:11:53

A. Okay. I'm with you, I think. 06:12:23

Q. Is the Wald test or joint hypothesis test as Dr. Harrison calls it a reliable measure in determining goodness of fit in your opinion? 06:12:25 06:12:26 06:12:30 06:12:32

A. Well, I have to back up. I'm sorry. I don't mean to delay you. 06:12:37 06:12:38

Q. That's fine. 06:12:41

A. It appears to me in that paragraph the first test statistic is from a probit model, and just at a glance it appears the rest mentioned there are from the log linear models. So in the case of the probit model, that statistic is going to be a P value for a chi-squared test which may be termed a Wald test. The rest of them are going to be P values from F statistics. 06:12:42 06:12:45 06:12:49 06:12:54 06:12:56 06:12:59 06:13:02 06:13:05 06:13:07 06:13:09 06:13:11

Q. F tests? 06:13:13

A. F tests. Which is not the Wald test. 06:13:14 06:13:15

Q. Let's focus first on the Wald test, 06:13:15

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1		the first one.	06:13:17
2	A.	Okay.	06:13:18
3	Q.	You said that was a chi-squared	06:13:19
4		test, correct?	06:13:21
5	A.	I believe that's -- it's -- the	06:13:21
6		test statistic doesn't actually	06:13:25
7		follow a chi-squared distribution.	06:13:27
8		It's approximated by a chi-squared	06:13:30
9		distribution. It's the test	06:13:35
10		statistic that that's the Wald	06:13:36
11		statistic, and it's actual	06:13:38
12		probability distribution is	06:13:40
13		probably very complicated.	06:13:41
14		Commonly used in approximations is	06:13:44
15		a chi-squared distribution.	06:13:48
16	Q.	Well, let's call it the Wald test,	06:13:48
17		because I think that's what I think	06:13:51
18		he refers to it as if that's all	06:13:52
19		right with you.	06:13:54
20	A.	That's fine. I just don't see	06:13:55
21		reference to it here on this page,	06:13:57
22		but I'm willing to take that.	06:13:59
23	Q.	Okay. Is the Wald test a reliable	06:14:01
24		measure in determining the goodness	06:14:08
25		of fit?	06:14:10

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A. I have to say it depends on the situation, and if we are talking specifically about probit models as we are dealing with here, very specific terms, this test is -- the test that is used here is probably the most wide used test for testing the null hypothesis, that one of the factors included in the model have any effect on the occurrence or nonoccurrence of the event in question. Here the event in question is generating a positive Medicaid expense. 06:14:11 06:14:13 06:14:16 06:14:19 06:14:21 06:14:26 06:14:29 06:14:33 06:14:35 06:14:37 06:14:41 06:14:44 06:14:47 06:14:49

Q. So the Wald test as used here is, in fact, a reliable measure of goodness of fit? 06:14:51 06:14:52 06:14:54

A. That isn't the word I used. I'm not talking about its reliability. 06:14:56

Q. Okay. You're just saying it's the most widely used? 06:14:58 06:14:59

A. Yes. It's the most widely test used. There are other tests used. The SAS prints out two or three different tests statistics here. 06:15:01 06:15:02 06:15:04 06:15:07

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There are others that can be used. 06:15:09
As a plain old general every day 06:15:11
test statistic for testing the null 06:15:13
hypothesis of no effect in the 06:15:17
whole model, this chi-squared 06:15:19
statistic is routinely used, 06:15:21
commonly used. It's associated 06:15:24
with probit analysis from the 06:15:25
beginning of the procedure. 06:15:27
Q. Well, if you wanted to test the 06:15:29
null hypothesis in Dr. Harrison's 06:15:32
probit model, would you use the 06:15:34
Wald test? 06:15:37
A. I would use -- I would use the 06:15:38
chi-squared test. 06:15:40
Q. Which is a form of the Wald test? 06:15:41
A. I believe that some people call it 06:15:43
a Wald test. I have a little 06:15:45
problem with that, because Wald 06:15:48
tests usually comes up in a little 06:15:50
different structure. But the 06:15:53
chi-squared test which is really 06:15:56
like a likelihood ratio test. 06:15:59
Q. And you said there's two separate 06:16:03
tests reported there in Footnote 06:16:05

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41, the Wald test and the F test, correct? 06:16:07 06:16:11

A. I'm sorry. I wasn't looking at Footnote 41. I was looking at the paragraph above. I thought that was what we were talking about. 06:16:11 06:16:13 06:16:16 06:16:18

Q. Look at Footnote 41 on Page 48 of 51. 06:16:20 06:16:24

A. It's interesting. Yes, now we are in quite a different context here. 06:16:46 06:16:51

Q. Okay. 06:16:53

A. Quite different from what's mentioned in the paragraph above that we were talking about. 06:16:54 06:17:04 06:17:04

Q. Okay. Is it a Wald test that is characterized in Footnote 41? 06:17:04 06:17:04

A. I can't say with certainty. He doesn't identify it here as a Wald test. My guess is that these are based on changes in chi-squared statistics, these chi-squared goodness of fit statistics. 06:17:07 06:17:08 06:17:10 06:17:13 06:17:17 06:17:20

Q. Okay. Well, let me ask you this question and it may be a bit general. Have you done any 06:17:23 06:17:26 06:17:28

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analysis of Dr. Harrison's Wald 06:17:29
tests as reported in his model or 06:17:32
any of the F tests that he reported 06:17:36
in his model? 06:17:37
I think he refers to all of 06:17:38
them collectively as the joint 06:17:41
hypothesis test. Have you done any 06:17:42
analysis, independent analysis on 06:17:45
your own of those tests? 06:17:46
A. I have looked -- I probably looked 06:17:48
at all of those. 06:17:51
Q. And what were your results? 06:17:52
A. I think that's mentioned in my 06:17:54
report. 06:17:56
Q. Tell me where I can find that in 06:17:57
your report. 06:17:58
A. Let me see if I can find it. 06:17:59
It's -- Let's see. May be in 06:18:02
the section "The Models Don't Fit 06:18:06
The Data." I have to look and see. 06:18:08
Q. Okay. Take your time. 06:18:11
A. I'm sorry. It's in the next 06:18:13
section, I think. There's some 06:18:14
discussion in both paragraphs about 06:18:25
coefficients and sets of 06:18:31

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coefficients being not 06:18:32
significantly different from zero. 06:18:35
Q. Okay. You're talking about Page 4 06:18:37
of 29? 06:18:39
A. Yes. Page 4 of 29. 06:18:40
Q. Of your report? 06:18:42
A. Of my report. 06:18:43
Q. All right. 06:18:44
A. And then there's mention in the 06:18:45
second paragraph of establishing a 06:18:46
statistical relation between 06:18:52
Medicaid expenses and smoking 06:18:55
variables. I believe that's what 06:18:57
Harrison's Footnote 41 alludes to. 06:19:02
So I tried to summarize that 06:19:10
without going through and listing 06:19:12
every single F test or chi-squared 06:19:13
test. 06:19:17
Q. Is it your opinion that the R 06:19:26
squared test and the root means 06:19:28
squared error test are better or 06:19:32
more appropriate measures of 06:19:37
goodness of fit in this context 06:19:38
than the Wald test and the F test 06:19:40
as employed by Dr. Harrison? 06:19:42

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A. I tried to emphasize that R squared is kind of a gross overall indication of goodness of fit. It's not a test. 06:19:45 06:19:48 06:19:50 06:19:53

The prediction intervals that I described or the minimal extent of prediction intervals that I described is another aspect illustrating poor fit. 06:19:57 06:19:59 06:20:02 06:20:04 06:20:06

The Wald test and the F tests are not tests of goodness of fit at all. 06:20:10 06:20:13 06:20:16

Q. I thought that we had established they are. Maybe that was my misunderstanding. 06:20:17 06:20:18 06:20:21

A. It's possible that I misunderstood a question. 06:20:22 06:20:24

Q. Tell me what they are if they are not tests of goodness of fit. 06:20:26 06:20:28

A. What those test statistics test is a null hypothesis that all coefficients are zero. That is that nothing in this model has any effect against the alternative that at least one has some effect. 06:20:30 06:20:33 06:20:36 06:20:38 06:20:40 06:20:43

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Those are the overall chi-squared tests or F tests. And so in terms of how well the data fit the model, I should say how well the model fits the data, those test statistics are practically meaningless in terms of goodness of fit. All they attempt to do is to determine whether there are discernible affects there. No matter how small they might be, can we see there is an effect. 06:20:45 06:20:50 06:20:53 06:20:56 06:20:59 06:21:02 06:21:05 06:21:07 06:21:15 06:21:17 06:21:19 06:21:22

Q. Do you believe that the root means squared error test -- first of all, that is a measure of goodness of fit? 06:21:23 06:21:25 06:21:30 06:21:32

A. It's a statistic that measures the variability of residuals in the model. Residuals are what's left over after accounting for the model. 06:21:33 06:21:37 06:21:43 06:21:45 06:21:47

Q. Okay. Is that a valid test to use when you're attempting to measure or look at just one model? 06:21:48 06:21:51 06:21:52

A. What you call root means square or 06:21:59

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the square root of error means 06:22:02
squared is not itself a goodness of 06:22:07
fit statistic. It does have the 06:22:10
property that if the model predicts 06:22:13
each response perfectly, then that 06:22:17
statistic will have the value zero. 06:22:22
In a very extreme sense it has some 06:22:24
relation to goodness of fit. It's 06:22:28
an important statistic, because it 06:22:31
measures variability left over 06:22:34
after accounting for the model. 06:22:37
That's why it has such a central 06:22:39
role in a prediction interval. 06:22:43
Q. If you were looking at only one 06:22:46
model though, just one, would you 06:22:48
use root mean squared error? 06:22:52
A. You mean so I'm looking at one 06:22:58
model -- 06:23:01
Q. Just one. 06:23:02
A. -- and I want to summarize or 06:23:03
assess how well it fits the data. 06:23:05
Is that right? 06:23:07
Q. That's right. That's right. 06:23:17
A. I have to say I can't imagine 06:23:17
looking at just one thing. 06:23:17

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Q. But if you did, would you use the root means squared error? 06:23:17 06:23:17

A. The trouble is it's not -- it's not scale free so I couldn't use it alone. 06:23:23 06:23:29 06:23:31

MR. HALL:

Are we at a good point for a break? 06:23:44 06:23:46

MR. GRUENLOH:

Yes. We can probably do that. 06:23:48 06:23:49

THE VIDEOGRAPHER:

Going off the record at 6 hours, 20 minutes, and 3 seconds. 06:23:51 06:23:53 06:23:55

(A break was taken.) 06:33:28

THE VIDEOGRAPHER:

Back on the record at 6 hours, 29 minutes, and 52 seconds. 06:33:36 06:33:37 06:33:41

EXAMINATION BY MR. GRUENLOH:

Q. Dr. LaMotte, look at the seventh bullet point down on Exhibit #8, please. 06:33:44 06:33:46 06:33:48

It reads, "Dr. Harrison's 06:33:49

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models perform very poorly in estimating aggregate Medicaid expenses." 06:33:50 06:33:52 06:33:53

Can you tell me what you mean by "very poorly" there? 06:33:54 06:33:56

A. Yes. There's an example in my report. 06:33:58 06:34:00

Q. All right. What page? 06:34:01

A. Let me find it for you. 06:34:02

Q. Page 3? 06:34:15

A. I think so, yes. This is an illustration based on that sample of 100. 06:34:15 06:34:18 06:34:20

Q. Okay. But before we get to that, and I think it appears in the last paragraph. Before we get to that let me have you look at the sentence immediately preceding that last paragraph which reads, "Estimated expenses generally appear to have little relation to recorded expenses." 06:34:21 06:34:24 06:34:26 06:34:26 06:34:28 06:34:30 06:34:31 06:34:33 06:34:35

Can you tell me what the significance of that statement is? 06:34:39 06:34:40

A. Simply that in looking at Table 1, 06:34:41

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if we look at Table 1 which is a list of information from 100 cases from the NMES data set, that sentence is a -- sort of a qualitative assessment of whatever relation there is between columns labeled in there FDHO and DHO. 06:34:45 06:34:54 06:34:57 06:35:01 06:35:05 06:35:08 06:35:11

Q. Okay. In the second paragraph on Page 3 of your report, you only list two ID numbers or two examples. Are those two examples from the 100 or is that a separate analysis you performed? 06:35:15 06:35:17 06:35:21 06:35:24 06:35:26 06:35:30

A. These should be from the 100. 06:35:31

Q. Okay. So you did an analysis of 100 random people out of the NMES database and you reported two in your report, correct? 06:35:33 06:35:35 06:35:38 06:35:40

A. Well, the whole -- all hundred are listed in Table 1. Some information. 06:35:42 06:35:45 06:35:47

Q. You recorded two in the text of your report, correct? 06:35:47 06:35:49

A. I used two as examples in the fourth paragraph on Page 3. 06:35:52 06:35:56

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Q. Okay. But you looked at 100 to form your conclusion. Is that what your testimony is? 06:36:00 06:36:03 06:36:05

A. There are 100 in this example. This is an illustrative example. 06:36:06 06:36:08

Q. And those 100 are -- the people are participants in the NMES database that you used to form your conclusion, correct? Form your conclusion that Dr. Harrison's models performed very poorly in estimating aggregate Medicaid expenses? 06:36:13 06:36:18 06:36:20 06:36:22 06:36:25 06:36:27 06:36:28 06:36:31

A. I'm trying to recall. I may actually have looked elsewhere at those -- I may have looked at that question over the whole data set. I just don't recall at this time. It's easy to do. 06:36:31 06:36:34 06:36:37 06:36:41 06:36:43 06:36:45

Q. Well, have you done it over the whole data set or did you just use 100? 06:36:46 06:36:48 06:36:50

A. I don't recall. I used 100 for this example so anyone looking at it could see all the data being 06:36:50 06:36:52 06:36:56

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examined here. It's just a sample of 100. 06:36:59 06:37:02

Q. Do you believe that the observed expenditures for 100 observations or samples tells us anything reliable about the expected probability of an expenditure? 06:37:04 06:37:06 06:37:10 06:37:11 06:37:14

A. I used this as an illustration. I believe it gives the impression that I wanted to illustrate. 06:37:16 06:37:18 06:37:19

Q. Do you believe that your sample of 100 is representative of the entire NMES database? 06:37:22 06:37:23 06:37:25

A. I can't say that. All I can say is that it was 100 cases sampled at random. 06:37:27 06:37:29 06:37:32

Q. What does this show if the 100 people, the 100 sample that you used is illustrative of the entire NMES database? 06:37:33 06:37:35 06:37:37 06:37:39

A. The point I want to illustrate is that the estimated expenses don't seem to bear much relation to actual expenses. 06:37:40 06:37:42 06:37:46 06:37:48

Q. Based upon 100 -- 06:37:49

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A. The point I'm trying to illustrate is that that point has already been mentioned in terms of R squared, in terms of expanses of prediction intervals. I wanted simply to show some concrete cases. 06:37:53 06:37:55 06:37:58 06:38:01 06:38:04 06:38:07

I could have used one case to illustrate this. If I had done that, I would perhaps justifiably have been accused of picking the worst possible case. I could have used two or three. 06:38:10 06:38:12 06:38:17 06:38:21 06:38:23 06:38:25

Q. But you chose 100? 06:38:37

A. I could have chosen 100 extreme cases, and there are many extreme cases. There are cases that are much more extreme than this. 06:38:37 06:38:37 06:38:37 06:38:37

Q. How do you know? 06:38:40

A. Because I have seen them. There are cases with estimated Medicaid hospital expense on the order of several million dollars, for example, for persons who had zero Medicaid hospital expense. 06:38:40 06:38:41 06:38:46 06:38:49 06:38:51 06:38:53

Q. Okay. Well, let me ask you this: 06:38:54

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Have you statistically checked to make sure that the sample in your report of 100 NMES participants is representative of the sample that Dr. Harrison used in his report? Have you done that statistical check? 06:38:57 06:38:59 06:39:01 06:39:05 06:39:06 06:39:08 06:39:11

A. I would not know how to make such a check. In a way it's nonsense. 06:39:11 06:39:14

Q. Have you done it? 06:39:16

A. How would I have done it if I said I don't know how to make such a check? 06:39:17 06:39:19 06:39:21

Q. Do you believe that the 100 people that you used in your report as listed on Page 3 are representative of the sample which Dr. Harrison used? 06:39:22 06:39:24 06:39:27 06:39:31 06:39:33

A. Very often the word representative is used in a statistical context to mean having arisen as a result of a bona fide random sample. These 100 were chosen at random using a random number generator and all just as I would generate a sample 06:39:34 06:39:35 06:39:38 06:39:42 06:39:44 06:39:47 06:39:49

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in any situation. In that sense then in the sense that they result from a random sample, they are ipso facto representative. 06:39:51 06:39:54 06:39:57 06:40:01

I don't think you meant it in that sense. That's a very narrow sense. Now, in -- my purpose in using a random sample as opposed to say taking the first 100 that showed up or all of those after the 12,000th case or whatever, was simply so that it's clear that I didn't deliberately choose these in some way. 06:40:03 06:40:05 06:40:07 06:40:12 06:40:15 06:40:19 06:40:22 06:40:25 06:40:30 06:40:34

Q. I understand the importance that you're placing upon the fact that you took a random sample. But my question to you is because you only took 100 and not the entire NMES database which Dr. Harrison used or the portion that he used, did you do any check to determine whether those 100 were similar in characteristics to the rest of the NMES database? 06:40:34 06:40:36 06:40:38 06:40:39 06:40:42 06:40:46 06:40:48 06:40:50 06:40:52 06:40:53 06:40:56

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A. No, I did not. 06:40:58
Q. As we sit here today, can you tell 06:40:59
me whether they are? 06:41:01
A. I cannot. 06:41:03
Q. You just mentioned the R squared 06:41:13
values that we talked about before. 06:41:15
I'm saying that because I think 06:41:17
this is probably going to be the 06:41:19
answer to my question. Is there 06:41:20
anything else aside from that 06:41:22
sampling of 100 people which you 06:41:24
have relied upon as the basis for 06:41:27
your opinion that Dr. Harrison's 06:41:29
models do not do well estimating 06:41:31
aggregate Medicaid expenses? 06:41:33
A. As I tried to indicate earlier, I 06:41:36
may have computed the total for the 06:41:38
whole data set or the adults or the 06:41:44
children, and I don't remember for 06:41:47
sure. It's not reported here. 06:41:48
You're asking me what influenced my 06:41:51
opinion. I may have looked at the 06:41:53
total expense of, let's say, 06:41:58
adults, and total estimated expense 06:42:02
in order to see how close they 06:42:05

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1		come. That's estimating an	06:42:07
2		aggregate.	06:42:09
3	Q.	Was that included in your report?	06:42:12
4	A.	That's not in my report.	06:42:13
5	Q.	Is that included in any of the	06:42:15
6		materials which you provided to the	06:42:16
7		plaintiff or to your defense	06:42:17
8		counsel?	06:42:20
9	A.	I'm not sure. I don't think it is.	06:42:21
10	Q.	Do you have that test? Is it on a	06:42:22
11		disk somewhere that you could point	06:42:26
12		me to so I could look at it?	06:42:28
13	A.	It's very easy to do from the data	06:42:30
14		set. It takes one SAS statement.	06:42:32
15	Q.	So you don't have that available?	06:42:36
16	A.	So far as I know it's not	06:42:38
17		explicitly set out in here.	06:42:39
18	Q.	If you would, sir, if you could	06:42:54
19		turn to Page 4 of Exhibit #7 which	06:42:57
20		is your report. The first sentence	06:42:59
21		that reads, "In all the models,	06:43:03
22		many coefficients are not	06:43:05
23		significantly different from 0."	06:43:06
24		Have I read that correctly?	06:43:08
25	A.	Yes.	06:43:09

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Q. When you looked at the coefficients in Dr. Harrison's model, how did you go about determining whether they were significantly different from zero? 06:43:11 06:43:13 06:43:16 06:43:17 06:43:18

A. I looked at each coefficient, looked at the test statistic related to that coefficient. As described here, I also looked at times at groups of coefficients. 06:43:20 06:43:23 06:43:26 06:43:30 06:43:33

Q. If the coefficients are significantly different from zero, what does that tell you if they are? 06:43:40 06:43:44 06:43:46 06:43:49

A. That's a statistical indication that within the limitations of the data and the model formulation, all of that, in other words, assuming a lot of assumptions, that an effect is discernible for that particular factor or group of factors. Adjusting for is the usual term other factors in the model. 06:43:52 06:43:54 06:43:56 06:43:58 06:44:01 06:44:13 06:44:13 06:44:13 06:44:15

Q. Okay. What are the smoking variables in Dr. Harrison's model? 06:44:15 06:44:17

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A. Oh, there's -- I'm not sure. I used a different set of names. I'm not sure I will use exactly the same names but I will try to describe them. 06:44:21 06:44:24 06:44:26 06:44:29 06:44:29

One is an indicator for ever smoked. Another is indicator for smoke now. Then there's years smoked, and there's square of years smoked. There's cigs then -- number of cigarettes per day smoked then and the square of that. There's cigs now and the square of that. There's what I believe he terms passive smoking, which is the sum of the number of cigarettes per day for other people in the household. In the adult model it's net of the adult in question and the children's model it's not and the square of that. 06:44:30 06:44:33 06:44:36 06:44:40 06:44:43 06:44:46 06:44:48 06:44:50 06:44:52 06:44:59 06:45:01 06:45:03 06:45:09 06:45:11 06:45:14 06:45:17

Q. And you tested each of those variables to determine if they were significantly different from zero? 06:45:19 06:45:21 06:45:23

A. At various times I looked and 06:45:25

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various places in here. I've looked at each one separately. All you have to do is look at the statistics or chi-squared statistic beside the coefficient estimate, and, of course, looked at them as a group. Those are different questions, quite different questions. 06:45:27 06:45:28 06:45:31 06:45:33 06:45:35 06:45:38 06:45:39 06:45:43 06:45:45

Q. Your testimony today is that you looked at all of those smoking variables together as a group? 06:45:53 06:45:54 06:45:56

A. I think at one time or another I looked at -- in each of the adult and children's models testing the hypothesis that none of the smoking coefficients is zero which means looking at them simultaneously. 06:46:00 06:46:02 06:46:06 06:46:08 06:46:11 06:46:14

Q. So your testimony today is that you have, in fact, tested the effect of all of the variables jointly when taken together as a whole? 06:46:17 06:46:19 06:46:22 06:46:25

A. I think that's correct. 06:46:27

Q. Is that reported somewhere in your report? 06:46:28 06:46:31

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A. It's alluded to -- I haven't listed everyone of those. Because they are -- they are in the output generated by LIMDEP if you run Harrison's models. They weren't supplied in his report, but if you run the models they are there. And they in the runs that I made here. 06:46:32 06:46:36 06:46:37 06:46:40 06:46:42 06:46:46 06:46:48 06:46:51

Q. Which runs? 06:46:54

A. The ones that we -- that I showed you earlier. One of these exhibits. 06:46:55 06:46:58 06:47:00

Q. Which we marked as the exhibit, okay. 06:47:01 06:47:02

So your results when you tested all of the smoking variables jointly are in those output results which we marked as an exhibit today? 06:47:06 06:47:07 06:47:09 06:47:14 06:47:16

A. They are in there for the log linear models. In the probit procedure and SAS, there's not an automatic option to test multiple hypotheses. That entails running the models with those variables and 06:47:16 06:47:18 06:47:20 06:47:23 06:47:25 06:47:30

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running it without those variables and subtracting the chi-squares, taking the difference in chi-squares, and so on. I didn't run that and print it here, but that statistic comes out automatically in Professor Harrison's LIMDEP output. 06:47:32 06:47:34 06:47:36 06:47:39 06:47:41 06:47:43 06:47:45 06:47:49

Q. When I asked you earlier if you tested all of the smoking variables, you said you tested them individually and you tested them all together jointly. 06:47:51 06:47:53 06:47:55 06:47:56 06:47:59

That indicates to me that there could be two separate results from those two tests. Is that correct? 06:48:00 06:48:04 06:48:05 06:48:07

A. Sure. That's typical. 06:48:07

Q. Just to be clear -- just so I can be clear, it's your testimony today that you have in fact tested each of those smoking variables to determine their joint effect and you have in fact reported that in the output which is on 06:48:15 06:48:18 06:48:20 06:48:22 06:48:24 06:48:25 06:48:27

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Exhibit -- is that the one in Exhibit #6? 06:48:29 06:48:36

A. Let me look at it to be sure. 06:48:37

Let me reiterate what I said before. The probit models which run under a procedure called logistic in SAS, there's not an option for testing conjunctive hypothesis so that doesn't appear in this particular output. In the regression procedure -- yes, I just checked, and in all the models there's a test statistic for testing simultaneously that the coefficients of the smoking variables are zero. That's in all the log linear models here. That's for the adult models, and in each children's model as well. 06:48:39 06:48:41 06:48:46 06:48:49 06:48:51 06:48:55 06:48:57 06:48:59 06:49:02 06:49:05 06:49:07 06:49:12 06:49:14 06:49:16 06:49:19 06:49:22

But for the probits, those test statistics for jointly testing the smoking coefficients, those test statistics are not included in this output. They are, however, in Professor Harrison's output 06:49:26 06:49:29 06:49:32 06:49:34 06:49:36 06:49:41

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or -- since he didn't supply output 06:49:44
maybe I should say output from his 06:49:55
LIMDEP programs which I also ran. 06:49:55
Q. Look at Page 4 of your report. I 06:49:55
believe it's Exhibit #7. 06:49:59
The first sentence of the 06:50:05
second paragraph which I believe is 06:50:06
also your 9th bullet opinion on 06:50:10
Exhibit #8 reads, "In most of these 06:50:12
models, the mere existence of a 06:50:15
statistical relation between 06:50:15
Medicaid expenses and the smoking 06:50:17
variables cannot be established." 06:50:18
Have I read that correctly? 06:50:21
A. Yes. 06:50:22
Q. All right. Now the paragraph 06:50:27
preceding that you are talking 06:50:28
about testing individual smoking 06:50:30
variables, correct? 06:50:32
A. There's mention of joint tests 06:50:37
there as well in the previous 06:50:38
paragraph. For instance, in the 06:50:40
second sentence in parenthesis, 06:50:42
"although in the hospital and 06:50:45
physician probit models, the 06:50:46

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hypothesis that all eleven coefficients are 0 is rejected at the 5% level of significance." So there's mention of both a joint test and an individual test there. 06:50:48 06:50:49 06:50:52 06:50:53 06:50:55

Q. Why did you use five percent level of significance? That's a 95 percent confidence interval, right? 06:51:01 06:51:03 06:51:05

A. 95 percent confidence interval corresponds to a five percent level of significance for a two-sided test, that's correct. 06:51:07 06:51:10 06:51:12 06:51:14

Q. Why did you use the five percent level of significance? 06:51:16 06:51:18

A. The reason I used the five percent level of significance is that it's very widely used, and it, in fact, is so widely used that in most journals if you use a five percent level of significance, it doesn't raise an eyebrow. 06:51:19 06:51:21 06:51:24 06:51:28 06:51:33 06:51:34 06:51:37

If you choose instead to use the eight percent level of significance or the ten percent level of significance, you're going 06:51:38 06:51:40 06:51:41 06:51:43

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to have to explain it. The five 06:51:46
percent level is widely used. 06:51:50
There is no -- so far as I know, 06:51:52
there's no strong statistical 06:51:55
reason for using the five percent 06:51:57
level of significance. 06:51:59
Q. Well, if variables are not 06:52:00
significantly different from zero 06:52:02
at the five percent level but are 06:52:06
in fact significantly different 06:52:07
from 0 at the 6 percent level, can 06:52:08
you automatically reject those 06:52:13
variables as not valid? 06:52:15
A. This is one of those 06:52:20
situations that I tried to explain. 06:52:22
Technically speaking, if you set 06:52:28
out and you declare that you're 06:52:32
going to test all hypotheses at the 06:52:34
20 percent level of significance -- 06:52:36
let's make it more extreme -- and 06:52:38
you act consistently with that, 06:52:42
then nobody can second guess you so 06:52:46
far as the internal consistency of 06:52:48
what you have done. So far as the 06:52:50
acceptability, the credibility, the 06:52:52

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stringency, scrutiny, you would simply in common practice and common convention you would have to explain a great deal in order to justify using a 20 percent level of significance. As I tried to say earlier, there's no particularly strong reason for that. It's mostly just convention. 06:52:57 06:53:01 06:53:03 06:53:06 06:53:08 06:53:11 06:53:14 06:53:17 06:53:19

Q. Okay. Well, if you had tested at the six percent level, would you have gotten different results or the same results as you reported on Page 4 of your report? 06:53:20 06:53:25 06:53:30 06:53:34 06:53:36

A. I would need to go through all 17 of those test statistics to see. It certainly is possible that I would get different results. 06:53:37 06:53:41 06:53:43 06:53:45

Q. Let's go back to the 9th bullet point which is the first sentence on that second paragraph there. 06:53:59 06:54:01 06:54:03

How are you defining the term "statistical relation" there? 06:54:07 06:54:08

A. That's related to that test of significance. 06:54:13 06:54:15

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Q. Do you know if Dr. Harrison did any testing to determine whether there was a statistical relation between Medicaid expenses and smoking variables? 06:54:19 06:54:22 06:54:24 06:54:26 06:54:28

A. I believe he refers to some tests. 06:54:29

Q. Did you look at those tests that he referred to? 06:54:33 06:54:35

A. Well, in many cases these are the same tests we are been talking about. 06:54:36 06:54:38 06:54:40

Q. Did you analyze the tests that he did to determine whether there was a statistical relation between Medicaid expenses and smoking? 06:54:40 06:54:42 06:54:44 06:54:46

A. The tests that he did are the same ones that I have been talking about. 06:54:49 06:54:51 06:54:52

Q. The tests that he did are the same ones that you reported on Page 4 of 29 of your report? 06:54:54 06:54:55 06:54:57

A. I would have to look carefully to be sure, because I reported my results without going back and comparing them to his, but the 06:55:00 06:55:04 06:55:06 06:55:11

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1		results of my runs on the models	06:55:13
2		are virtually identical to his.	06:55:15
3	Q.	Well, let's look at Exhibit #11 for	06:55:18
4		a moment. I want you to turn to	06:55:20
5		that same footnote on Page 48.	06:55:32
6	A.	Okay.	06:55:35
7	Q.	Can you tell me what Dr. Harrison	06:55:55
8		is testing for as reported in	06:55:56
9		Footnote 41?	06:56:00
10	A.	Apparently he's testing joint	06:56:01
11		effects of the smoking variables.	06:56:03
12	Q.	Do you know what his results were?	06:56:13
13	A.	I see what he says, that joint	06:56:16
14		tests confirm that the smoking	06:56:18
15		variables are indeed statistically	06:56:33
16		significant at conservative levels	06:56:33
17		for virtually all equations.	06:56:33
18	Q.	Is it your opinion that he's wrong?	06:56:35
19	A.	Well, I would have to go back and	06:56:36
20		look at all of these, but according	06:56:39
21		to my summary, he's wrong.	06:56:42
22	Q.	Well, when you reviewed Dr.	06:56:45
23		Harrison's report in anticipation	06:56:47
24		of making your own report, did you	06:56:50
25		read Footnote 41?	06:56:54

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A. Yes. I'm sure I read Footnote 41. 06:56:55
Q. Did you ever think to take the 06:56:59
results as reported in Footnote 41 06:57:01
and run those yourself to see what 06:57:04
you came out with? 06:57:05
A. I don't recall actually looking at 06:57:07
them side by side, but I certainly 06:57:09
did look at my results. 06:57:12
Q. Is it your opinion that there's no 06:57:25
statistical relationship between 06:57:26
higher medical expenditures and 06:57:29
smoking? 06:57:31
A. Let's see. As -- I guess I would 06:57:37
have to say I don't have any basis 06:57:42
for an opinion on that. 06:57:44
Q. Have you ever read any of the 06:57:46
Surgeon General's reports? 06:57:48
A. I don't believe I have read any of 06:57:49
them. 06:57:52
Q. All right. Have you ever read any 06:57:53
of the vast amount of 06:57:57
epidemiological literature which 06:57:59
the Surgeon General reports are 06:58:01
based upon? 06:58:03
A. Not that I recall. 06:58:04

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Q. Do you know if there's been a statistical association between smoking and higher medical expenditures reported in the literature? 06:58:06 06:58:08 06:58:10 06:58:11 06:58:14

A. I can't say that I know that personally as a fact. 06:58:14 06:58:16

Q. Have you undertaken any independent determination to see if such a relationship exists? 06:58:20 06:58:22 06:58:26

A. No, I have not. 06:58:27

Q. Would that be important for you to know in the context of this case? 06:58:30 06:58:33

A. Not in the context of examining these models and the questions that I looked at. 06:58:36 06:58:38 06:58:39

Q. If your counsel came to you today and said, Dr. LaMotte, we want to determine whether there's a statistical correlation between higher medical costs and smoking, could you do it? 06:58:42 06:58:44 06:58:46 06:58:47 06:58:49 06:58:51

A. I think it may be possible to do it. As phrased the question is really quite vague and so without 06:58:58 06:59:02 06:59:06

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fleshing it out, I wouldn't be able to give you an opinion. 06:59:10 06:59:12

Q. Well, what's vague about my question? 06:59:16 06:59:17

A. It goes to a major part of Dr. Harrison's effort here. You asked whether it's possible to assess whether a statistical relation exists between medical expense and smoking. Of course, we would have to be very specific about medical expense. We would have to be very specific about smoking. Do you mean never smokers versus ever smokers or other characterizations of smoking? 06:59:20 06:59:23 06:59:26 06:59:28 06:59:32 06:59:35 06:59:40 06:59:42 06:59:44 06:59:46 06:59:50 06:59:53

Q. But those would all be assumptions that you could make in formulating -- 06:59:54 06:59:57 06:59:58

A. But they are not implicit in the question that you offered me. 06:59:59 07:00:01

Q. Okay. 07:00:03

A. We would have to talk about mitigating or exacerbating conditions. 07:00:04 07:00:09 07:00:11

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Q. What do you mean by that? 07:00:12
A. Characteristics of persons that 07:00:14
might have affects on potential 07:00:16
relationship -- statistical 07:00:21
relationship between medical 07:00:23
expenses and smoking. 07:00:24
Q. Are you talking about confounders, 07:00:26
obesity, things like that? 07:00:29
A. Yes. Anything like that. All the 07:00:31
basic sort of demographic 07:00:33
characteristics as well as others. 07:00:35
And, of course, the purpose of 07:00:37
that -- the ultimate objective is 07:00:39
apparently to assess under fixed 07:00:43
conditions with regard to what you 07:00:49
called confounders. In other 07:00:51
words, if we take a person or set 07:00:52
of persons under certain -- with a 07:00:54
certain set of characteristics, 07:00:56
changing only smoking levels or 07:00:58
smoking characteristics, is it 07:01:03
statistically discernible is in 07:01:08
effect statistically discernible on 07:01:12
Medicaid expenses. That seems to 07:01:15
me to be the objective to remove 07:01:18

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possible effects of confounders, and then to assess what statistical relation might exist. That's a tall order. 07:01:21 07:01:24 07:01:28 07:01:29

Q. Could you do it? 07:01:30

A. I think if it were defined clearly enough and narrowly enough I think it could be done. 07:01:40 07:01:42 07:01:47

Q. Let's move on. 07:01:51

A. I want to add to that. You asked if I could do it. 07:01:53 07:01:55

Q. Please do. 07:01:56

A. And I answered it could be done. I don't think that I have sufficient knowledge or expertise in the various areas that would be required to do it. 07:01:58 07:02:01 07:02:03 07:02:05 07:02:06

Q. If you can look at the final bullet on the first page of Exhibit #8. I think we already talked about the first part of that opinion concerning few cases earlier in the deposition so let's skip over that. 07:02:18 07:02:22 07:02:28 07:02:30 07:02:32 07:02:34

Actually let me ask you one question concerning that. What do 07:02:41 07:02:43

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you mean by "wide swing"? 07:02:45
A. The example I quoted in my report 07:02:48
is a swing of over one fourth in 07:02:49
the estimated smoking attributable 07:02:53
fraction from something like -- I 07:03:07
think the example was -- do you 07:03:07
mind if I look specifically? 07:03:07
Q. No. No. No. 07:03:07
A. I believe the example was in 07:03:09
hospital Medicaid paid expense SAF. 07:03:14
And by the way -- okay. This is my 07:03:23
report here. 07:03:26
There's a minor error that 07:03:28
shows up in this figure. I believe 07:03:33
the 12.1 percent there -- 07:03:38
Q. Which figure are you looking at? 07:03:41
A. I'm looking on Page 7 in the second 07:03:42
paragraph. 07:03:45
I believe the 12.1 percent 07:03:47
should be corrected to be -- oh, I 07:03:49
think 11.8 percent. I can give you 07:03:53
that correction. There's a minor 07:03:56
computational error in one program 07:04:00
that -- it's easy to fix, but it 07:04:04
affects this number. If we are 07:04:10

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going to talk about that number I would like to make sure I note that it needs to be corrected. 07:04:12 07:04:13 07:04:15

Q. Okay. 07:04:17

A. And it affects some of the other figures wherever individual expense category average -- overall average SAFs are mentioned. Wherever hospital physician, other professional, or drug expenses are separated out. Just a few places in the report. But this is one of those. 07:04:21 07:04:25 07:04:28 07:04:33 07:04:37 07:04:38 07:04:41 07:04:43 07:04:45

Q. Okay. In bullet number 11 on Exhibit #8 you state, "This observation combined with the ubiquitous imputation within NMES and the coding practices of Dr. Harrison have great effects on the estimated smoking attributable fractions." 07:04:46 07:04:49 07:04:50 07:04:53 07:04:56 07:04:58 07:04:59 07:05:01

What are the SAFs when you control for the ubiquitous imputation and the coding practice of Dr. Harrison? 07:05:04 07:05:05 07:05:09 07:05:12

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A. It's very difficult to do that. 07:05:13
It's -- it would represent a big 07:05:19
departure from what Harrison did. 07:05:21
Q. Have you made any attempt to 07:05:25
determine what those SAFs would be? 07:05:27
A. I believe I did make one attempt, 07:05:29
because going in and -- it's time 07:05:32
consuming and I didn't have the 07:05:37
time to check it out thoroughly and 07:05:40
hence I didn't report it. But I 07:05:42
believe I did, and in which case I 07:05:45
tried to simply delete those 07:05:52
cases -- I think all I did was look 07:05:57
at the effect of the coding 07:06:04
practices. I don't think I tried 07:06:05
to delete cases from imputations 07:06:08
from NMES because that simply 07:06:11
deletes way, way too many cases. 07:06:13
There's practically nothing left. 07:06:16
Q. As you sit here today, can you tell 07:06:18
me what the SAFs are? 07:06:20
A. Not precisely. My recollection is 07:06:21
that they go down by some amount. 07:06:24
Q. By what amount? 07:06:27
A. I don't recall. It wasn't a small 07:06:28

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amount, but it wasn't a tenth of a 07:06:32
percent. You asked me to be more 07:06:35
precise. I don't know right off 07:06:38
the top of my head. What I tried 07:06:39
to emphasize in the report is that 07:06:44
these choices and these practices 07:06:48
have effects on the numbers that 07:06:50
result. 07:06:52
Q. Well, point me to the page in your 07:06:53
report where you made an effort to 07:06:56
control for the ubiquitous 07:06:58
imputations in the coding practices 07:07:03
of Dr. Harrison. 07:07:05
A. I don't believe that's in the 07:07:08
report anywhere. I mentioned those 07:07:10
and tried to describe the extent of 07:07:12
cases and in some -- in some cases 07:07:15
dollar values associated with 07:07:19
those. 07:07:20
Q. And how much did the SAFs change? 07:07:21
A. Well, all I can say is that I 07:07:25
recall trying to go in and every 07:07:27
place where Harrison recoded a 07:07:32
minus nine code as a zero to delete 07:07:36
those cases and then rerun. Of 07:07:40

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course, deleting cases is controversial in itself but -- 07:07:42 07:07:43
Q. Does that analysis that you're talking about, does that analysis appear somewhere in the list of programs you have given us? 07:07:46 07:07:47 07:07:49 07:07:51
A. No, it does not. 07:07:54
Q. Is it reported anywhere in your report? 07:07:55 07:07:56
A. I don't think it is. 07:07:56
Q. As you sit here today, can you tell me how much those SAFs change? 07:07:59 07:08:01
A. I can't say. I would be afraid to hazard a guess. 07:08:03 07:08:05
Q. If you told me how much they were changing, you would be guessing. Isn't that true? 07:08:06 07:08:08 07:08:10

MR. HALL:

Don't interrupt him, please, Mike. He was finishing his answer, I think. 07:08:10 07:08:12 07:08:13 07:08:15

EXAMINATION BY MR. GRUENLOH:

Q. I apologize. Please. 07:08:17
A. I really don't remember. Of 07:08:19

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course, we have got eight different SAFs here plus nursing home, and I don't even remember if I ran all the SAFs or just hospitals or whatever. But I would be guessing. 07:08:21 07:08:23 07:08:27 07:08:30 07:08:33

Q. All right. Let's look at the second page of Exhibit #8. 07:08:42 07:08:43

First bullet reads, "Dr. Harrison's models should have been fit only to self-reported Medicaid persons. By failing to do this, Dr. Harrison has biased his estimated smoking attributable fractions upwards." 07:08:54 07:08:55 07:08:59 07:08:59 07:09:01 07:09:03

What is your basis for this opinion, sir? 07:09:05 07:09:08

A. Well, the basis for my opinion, I believe, is contained in my report. The simple answer is if you fit the models only to NMES records, with this MCAID equal to one, the overall combined nonnursing home SAF comes out -- I believe it says here to be three and a half percent compared to 9.6 percent. That 07:09:09 07:09:11 07:09:21 07:09:21 07:09:23 07:09:28 07:09:34 07:09:36 07:09:37

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seems to me to indicate an upward bias. 07:09:41 07:09:43

Q. Can you tell me what the eligibility requirements are for Oklahoma Medicaid? 07:09:49 07:09:51 07:09:53

A. I have no idea. 07:09:54

Q. Can you tell me what the Medicaid eligibility requirements were for the people in the NMES survey? 07:09:57 07:09:58 07:10:03

A. No idea. 07:10:06

Q. Do you know if they are the same as the Oklahoma Medicaid eligibility requirements? 07:10:07 07:10:09 07:10:13

A. I have only sort of an anecdotal information on that. 07:10:14 07:10:18

Q. Do you know if it's possible for someone who is not eligible for Medicaid prior to incurring some illness to become eligible for Medicaid as a result of that illness? 07:10:27 07:10:29 07:10:39 07:10:45 07:10:49 07:10:50

A. I don't know the answer to that. 07:10:52

Q. Do you know if it's possible for someone who is not eligible for Medicaid before the date the 07:11:13 07:11:15 07:11:17

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expenditure is occurred to actually have a legal Medicaid claim or expenditure? 07:11:18 07:11:20 07:11:22

A. I'm sorry. Repeat that, please. 07:11:23

Q. Sure. 07:11:25

Do you know if it's possible for someone who is not eligible for Medicaid prior to incurring some expense for some illness to have a legal Medicaid expenditure claim? 07:11:26 07:11:33 07:11:37 07:11:41 07:11:45

A. For that expense, you mean? 07:11:48

Q. Correct. 07:11:50

A. I don't know the answer to that. 07:11:51

Q. Let's look at the second bullet opinion on the second page of Exhibit #8. 07:12:06 07:12:09 07:12:10

Have you done any independent analysis to determine what the result of using the actual expenditure would be? 07:12:18 07:12:20 07:12:29 07:12:30

A. I believe I have. 07:12:35

Q. All right. Tell me where that is reported in your report. 07:12:37 07:12:39

A. That's reported in -- I believe in the third paragraph on Page 9 of my 07:12:41 07:12:49

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report. 07:12:52

Q. The sentence beginning with, "If all records"? 07:12:56 07:12:57

A. I believe that's correct. 07:12:58

Q. And you used the actual expenditure for all of the NMES recipients which Dr. Harrison used in his model? 07:13:06 07:13:08 07:13:12 07:13:13

A. As I understand the question, that's correct. The point here is in computing the SAFs -- in the step in which the SAFs are computed Harrison used only those persons who -- in the data set who had positive Medicaid expenses at that stage. 07:13:15 07:13:17 07:13:21 07:13:28 07:13:32 07:13:35 07:13:38 07:13:41

Q. Well, let me ask the question this way. Have you personally run Dr. Harrison's model using actual expenditures as opposed to the estimated expenditures which he uses? 07:13:42 07:13:44 07:13:46 07:13:49 07:13:51 07:13:53

A. I believe the answer is yes, but I have to get clarification. 07:13:55 07:13:57

Q. All right. 07:13:59

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A. Because -- I believe that's what leads to this 2.4 percent. 07:14:00 07:14:02

Q. Okay. So what you did here was in fact take the actual expenditures as listed in NMES, fit them into Dr. Harrison's model -- 07:14:13 07:14:15 07:14:18 07:14:24

A. I'm sorry. I misunderstood the question. 07:14:26 07:14:29

In this stage here, this includes in the computation of the SAF -- it's exactly Harrison's computation. And I'm sorry. I misunderstood. This still is 2.4 percent is still using for each person estimated expense and estimated never smoked expense, and the difference, and then add up the difference and divide by the sum of the estimated expenses. So the difference between this and Harrison's is that in that computation this uses persons who also had recorded zero Medicaid expense. 07:14:29 07:14:31 07:14:33 07:14:38 07:14:40 07:14:48 07:14:51 07:14:54 07:14:58 07:15:00 07:15:03 07:15:05 07:15:07 07:15:09 07:15:11 07:15:14

You asked about using actual 07:15:16

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expenses, yes, I did. That's reported farther down in this page. 07:15:17 07:15:20

Q. My question to you is this. Maybe this is what you just answered, and if you did, please let me know. 07:15:26 07:15:28 07:15:29

Did you take actual expenditures from the NMES database, plug them in Dr. Harrison's model, and run the whole model? Did you do that? 07:15:31 07:15:32 07:15:33 07:15:37 07:15:39

A. I'm not sure what you mean. I mean, the whole model is run. The models are fit using actual data, using actual expenses. So in that stage of the computation, fitting the models, I did exactly what he did. 07:15:41 07:15:42 07:15:45 07:15:48 07:15:52 07:15:54 07:15:58

Q. Okay. 07:15:58

A. In other words, the probit models are fit -- let's not -- I guess I should say I don't want to get confused here because I just talked about in the previous section using only those persons who say that they were eligible for Medicaid at 07:15:59 07:16:01 07:16:07 07:16:08 07:16:10 07:16:12 07:16:15

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some time during the period NMES 07:16:17
covered. 07:16:20
Q. Right. 07:16:21
A. Here I am talking about using all 07:16:22
records and using actual expenses 07:16:29
so there are two parts here on this 07:16:32
page, in this section on Page 9. 07:16:35
The first part -- in the first 07:16:37
part, the models are fit so that 07:16:48
stage is done using exactly 07:16:48
Harrison's procedures. Everything 07:16:50
is identical, the data used, 07:16:52
everything. In other words, all 07:16:54
the data are used in the probit 07:16:56
part and then naturally only those 07:16:59
with positive expenses in the long 07:17:03
linear part. That's unavoidable. 07:17:06
I never disputed that. 07:17:08
Then at the next state -- so 07:17:10
now we got the model fit and we got 07:17:11
the coefficients estimated. Now 07:17:14
for some set of persons we go in 07:17:16
for each person, compute estimated 07:17:18
expense as is and estimated expense 07:17:20
as if and so on to get smoking 07:17:23

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attributable expense and estimated expense. All of those persons have both now actual expenses and estimated expenses as is, estimated expense as if. 07:17:26 07:17:27 07:17:30 07:17:32 07:17:34

The only difference that I'm talking about here is in the identification of the subset for which this calculation is made. Harrison uses at this stage only those with positive Medicaid expenses. The 2.4 percent compares what would happen if instead of using only those with positive Medicaid expenses, but instead using all persons in the NMES data set, 18,855 adult set and 11,210 in the children's set. If you use all of them at this stage, so the models are fit exactly the same. Now you throw them all in at this stage and compute the SAFs and you get 2.4 percent. 07:17:39 07:17:40 07:17:44 07:17:46 07:17:48 07:17:51 07:17:53 07:17:58 07:17:59 07:18:01 07:18:03 07:18:08 07:18:14 07:18:16 07:18:19 07:18:21 07:18:23 07:18:25

That's what leads to this, this 2.4 percent. 07:18:29 07:18:30

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Q. Do you know why Dr. Harrison used predicted values instead of the actual values? 07:18:32 07:18:34 07:18:36

A. I saw his reason and I never could quite make sense of it. 07:18:37 07:18:40

Q. Why don't we turn to Page 27 of Dr. Harrison's report, whichever exhibit that is. Look for me if you would in Footnote 26. Actually it's the text that is explained by Footnote 26 that I'm referring to there. 07:18:42 07:18:44 07:18:47 07:18:55 07:19:13 07:19:15 07:19:17

Now, what Dr. Harrison did was build in the restriction that all nonsmoker SAFs would be equal to zero. Isn't that correct? 07:19:26 07:19:29 07:19:32 07:19:35

A. His procedure had that effect. 07:19:37

Q. That in fact is the reason that he lists for using predicted values as opposed to actual values. Isn't that true? 07:19:42 07:19:44 07:19:46 07:19:49

A. That seems to be the reason that he used. 07:19:49 07:19:52

Q. Do you believe that it's appropriate to build in to the 07:19:54 07:19:56

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model the restriction that the SAFs for all nonsmokers be zero? 07:19:58 07:20:02

A. In answer to your question, in isolation I agree with that. 07:20:06 07:20:08

Q. Could Dr. Harrison have built in that restriction if he had used actual expenditures as posed to predicted expenditures? 07:20:14 07:20:16 07:20:17 07:20:20

A. In my opinion it's simple. 07:20:22

Q. Tell me how you can do it using actual expenditures. 07:20:29 07:20:31

A. It's very simple. 07:20:32

Q. Okay. 07:20:34

A. All we have to do is look at the calculation for one person. We know we have actual expenditure. We know we have estimated expenditure. And we know that we have or it can be computed from Harrison's model estimated expenditure zeroing out the smoking variables. This is what I found confusing about his narrative all along. I couldn't see the connection between what he did and 07:20:35 07:20:37 07:20:39 07:20:41 07:20:44 07:20:46 07:20:49 07:20:51 07:20:54 07:20:58 07:21:01 07:21:02

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why he said he did it. 07:21:05

But it seems to me the whole 07:21:09
point of the model -- I mean, 07:21:11
there's never any doubt aside from 07:21:13
quality of the data and so on. 07:21:15
There's never any doubt that we 07:21:17
have actual expenses. This is 07:21:19
valuable data. This is a fact. 07:21:22
Again, NMES imputations aside. 07:21:25

So we have actual expense. In 07:21:34
some sense our target is the ratio 07:21:37
of smoking attributable expense to 07:21:40
actual expense. So the only thing 07:21:44
missing in there is smoking 07:21:45
attributable expense. It seems to 07:21:47
me that this is why he went to all 07:21:51
this modeling effort in the first 07:21:53
place is to identify smoking 07:21:55
attributable expense and it seems 07:21:57
to me it's implicitly defined as a 07:21:59
difference between estimated 07:22:03
expense as is and estimated expense 07:22:04
as if. 07:22:08

So if we have these three 07:22:09
numbers, if we have expense, 07:22:12

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estimated expense as is, estimated 07:22:15
expense as if, and simply take the 07:22:17
difference between these two to get 07:22:22
smoking attributable expense, we 07:22:25
have the two ingredients we need. 07:22:27
Smoking attributable expense, 07:22:30
actual expense, and the ratio of 07:22:33
the two is the SAF. Now, that way 07:22:36
clearly for any person who is not a 07:22:37
smoker, there's no difference 07:22:39
between estimated expense as is and 07:22:42
estimated expense as if, and that 07:22:54
person will have a zero SAF. 07:22:54

Q. Have you done that, that analysis 07:22:54
which you just described? 07:22:54

A. Sure, I have, and it's referred to 07:22:57
me in my report. 07:22:58

Q. Point out for me again, one more 07:22:58
time, if you could, where exactly 07:23:00
that is in your report so I'm clear 07:23:02
on this issue. 07:23:05

A. Next to the last paragraph Page 9. 07:23:06
To illustrate the extent of this 07:23:11
bias if GH's calculations are 07:23:13
reproduced exactly but with actual 07:23:16

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expense in place of estimated actual expenses, in the denominator of the ratio estimate of the SAF, the Medicaid nonnursing home combined SAF would be estimated to be 0.8 percent. That's exactly that calculation that I described. 07:23:17 07:23:19 07:23:24 07:23:26 07:23:29 07:23:32 07:23:35

Q. Look at bullet number three on the second page of Exhibit #8 if you would. Reads, "The variability of Dr. Harrison's estimated smoking attributable fractions is great and appears great enough that estimated SAFs as great as Dr. Harrison's would not be unlikely in some or all expense categories if the underlying central SAFs were 0." 07:23:42 07:23:44 07:23:45 07:23:47 07:23:48 07:23:50 07:23:51 07:23:54 07:23:56 07:23:57

Can you explain that opinion for me? 07:24:02 07:24:04

A. Yes. That opinion refers to the section on Page 10 of my report. 07:24:05 07:24:08

Q. All right. 07:24:15

A. That's based in part on simulations that I described there -- as described in the report. It's 07:24:18 07:24:21 07:24:27

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based on the simulations that I described there. 07:24:28 07:24:30

Q. Did Dr. Harrison report any confidence intervals on his SAFs in his report? 07:24:35 07:24:37 07:24:39

A. He did. 07:24:40

Q. Are you aware of what the results were? 07:24:41 07:24:42

A. I'm aware that he reported what he represented as confidence intervals, that those apparently resulted from his bootstrap procedures, and they appear in a graph in his report. 07:24:44 07:24:48 07:24:50 07:24:55 07:24:58 07:24:59

Q. Is it your opinion that the 95 percent confidence interval on Dr. Harrison's SAFs includes zero? 07:25:04 07:25:08 07:25:10

A. As he reports it it does not. 07:25:13

Q. Is it your opinion that it does? 07:25:15

A. It is my opinion -- and I have couched it rather carefully here because this analysis was not complete at the time I wrote this, and there were aspects of it that I wanted to check out. I partially 07:25:18 07:25:22 07:25:25 07:25:29 07:25:32 07:25:34

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checked those out but not completely at this point. But they were based on these simulations. And based on these simulations in some expense categories, simulating construction of these SAFs repeatedly -- I believe I did it 100 times each in those simulations. 07:25:37 07:25:39 07:25:40 07:25:44 07:25:47 07:25:51 07:25:53 07:25:55 07:25:57

Simulating under the condition that the coefficients of the smoking variables were zero, that the computed SAFs in those simulations in the reasonable proportion of the cases were less than zero. 07:26:00 07:26:02 07:26:03 07:26:07 07:26:11 07:26:16 07:26:17

Q. Okay. 07:26:18

A. So that's basis for the opinion that I have expressed here. That indicates to me -- you see, the SAF computation is a very complex computation. I don't know any other way to assess variability in this case than by some kind of simulation. Bootstrap is one kind. 07:26:20 07:26:22 07:26:24 07:26:27 07:26:30 07:26:34 07:26:37 07:26:40

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What I did is another. 07:26:43
Q. The bootstrap simulation that you 07:26:44
did and is marked, I think, as 07:26:46
Exhibit #5. I may be wrong. Is 07:26:48
that it? 07:26:50
A. This is a new one. As I mentioned 07:26:51
to you when we first talked about 07:26:54
this this morning, this is another 07:26:56
simulation that I did only very 07:26:59
recently. 07:27:01
Q. You weren't referring to that one 07:27:02
when you were just telling me the 07:27:04
basis of your opinion then? 07:27:06
A. No. I said the basis of my opinion 07:27:08
was the simulations reported here. 07:27:11
Q. The simulations as reported on Page 07:27:12
10 of your report? 07:27:14
A. That's correct. 07:27:16
Q. Based upon this -- 07:27:21
A. Excuse me. 07:27:33
THE VIDEOGRAPHER:
Going off the record at 7 07:27:58
hours, 24 minutes, and 8 07:27:59
seconds. 07:28:01
(Off the record.) 07:29:46

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THE VIDEOGRAPHER:
Back on record at 7 hours, 26 minutes, and 9 seconds. 07:29:57 07:29:58 07:30:01

EXAMINATION BY MR. GRUENLOH: 07:30:22

Q. Just to conclude what we were talking about before. Is it your opinion, Dr. LaMotte, that the 95 percent confidence interval in Dr. Harrison's results spans zero? 07:30:22 07:30:23 07:30:25 07:30:30 07:30:35

A. My results are different, and I should say that I was looking at simulations of SAFs for each expense component. If I remember correctly, the confidence intervals he constructs are for years but combined across expense components. That's a different statistic. 07:30:37 07:30:39 07:30:43 07:30:48 07:30:51 07:30:55 07:30:59 07:31:02

Q. So would it be accurate to say that he looks at all of the variables jointly and you have looked at them individually, or is that -- tell me. Is that fair to say? 07:31:04 07:31:06 07:31:10 07:31:12 07:31:14

A. That's not quite the way I would say it, but I have combined across 07:31:17 07:31:19

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years to get a figure for each expense category, each of the four expense categories. 07:31:33 07:31:33 07:31:33

Q. Okay. 07:31:33

A. He has for each year combined the four expense categories. So in a sense we are talking about slightly different numbers. 07:31:36 07:31:38 07:31:41 07:31:43

Q. He's looking at the joint effect of the four expense categories whereas you're looking at the effect of a number of years? 07:31:44 07:31:46 07:31:48 07:31:54

A. Not really. I'm averaging in exactly the same kind of weighted average that he reports across years so that I'm looking at one SAF, shall I say, for each expense category. I did that because I thought that was indeed the basic unit. 07:31:57 07:31:59 07:32:02 07:32:03 07:32:05 07:32:09 07:32:13 07:32:16

Q. Okay. Well, what method did you use for the analysis that you report on Page 10? 07:32:17 07:32:19 07:32:21

A. The method I used was simulation as I described it there. The 07:32:24 07:32:27

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simulation simulated the estimated 07:32:31
regression coefficients in the 07:32:33
probit models and the log linear 07:32:35
models. 07:32:38
Q. Can you point out for me, 07:32:38
please -- I can't remember the 07:32:41
number of the exhibit -- it's the 07:32:42
exhibit that lists your computer 07:32:44
programs? 07:32:46
A. I don't think I included that 07:32:47
program in here. 07:32:48
Q. You did not? 07:32:49
A. Because that was still in progress, 07:32:50
and I still wanted to check some 07:32:52
things out on that. 07:32:54
Q. All right. You reported the 07:32:55
analysis in your report, but you 07:32:57
did not include a computer program. 07:32:59
Is that right? 07:33:01
A. I believe that's correct. I can 07:33:02
look at the programs and see. I 07:33:03
think I consciously decided not 07:33:06
because that was preliminary. 07:33:10
Q. There it is. 07:33:14
A. Yes. I didn't want to include a 07:33:16

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program that I didn't feel comfortable with. 07:33:18 07:33:19

Q. But you included the results, correct? 07:33:23 07:33:25

A. I included the description of the results describing the simulations that I had run. 07:33:26 07:33:27 07:33:31

No, I don't believe -- I'm as certain as I can be it's not in there. 07:33:43 07:33:47 07:33:50

Q. You did not include that because at the time you wrote this in your report, you weren't 100 percent confident of the analysis? 07:33:50 07:33:52 07:33:53 07:33:55

A. As I said in the report, I said this is in progress, preliminary results indicate and so on. 07:33:56 07:33:58 07:34:00

Q. Let's look at bullet number five on the second page of Exhibit #8. Reads, "Dr. Harrison's method of coding missing values, which is a form of imputation, is not conservative and may have great effects on the SAFs." 07:34:23 07:34:26 07:34:29 07:34:30 07:34:31 07:34:33

Are you referring there to 07:34:35

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what we talked about earlier today as far as imputing zero for a smoker who had not included their smoking intensity? 07:34:37 07:34:39 07:34:42 07:34:45

A. It was in that context that we discussed that as one example, that's correct. 07:34:48 07:34:51 07:34:52

Q. Have you done any analysis to determine what effect that coding practice has on Dr. Harrison's SAF? 07:34:52 07:34:54 07:34:56

A. We discussed that briefly earlier, and I indicated that I recalled having tried to run that. You asked me how much did the SAF change and I said I would have to guess. 07:34:58 07:35:03 07:35:07 07:35:11 07:35:13 07:35:15

Q. So you think you might have done it but you can't remember the results as you sit here today? 07:35:20 07:35:22 07:35:23

A. I'm sure I ran it. 07:35:25

Q. It's not reported in your report or in -- 07:35:28 07:35:30

A. No, it's not, because that was a preliminary analysis, too. It was the sort of analysis that I didn't 07:35:31 07:35:34 07:35:36

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go back and closely scrutinize. I just -- I put it together and ran it and took a look at the results and didn't pursue it further. 07:35:41 07:35:47 07:35:50 07:35:53

Q. Okay. Let's look at bullet number six on Page 2 of Exhibit #8. I won't read this whole thing. It's quite lengthy. Can you explain this opinion to me generally? 07:35:54 07:36:00 07:36:06 07:36:08 07:36:10

A. Yes, I can. 07:36:12

There are two aspects of this, two reasons for this opinion. One is Professor Harrison's description of this weighting process that he used. He describes it, if I remember correctly, as adjusting for Oklahoma demographics. In my opinion, this really isn't adjusting for Oklahoma demographics at all. That's one reason for -- one reason that I looked at this. 07:36:19 07:36:23 07:36:30 07:36:34 07:36:37 07:36:42 07:36:46 07:36:50 07:36:53 07:36:56 07:36:59 07:37:02

Q. Okay. 07:37:02

A. The second is that in looking at the method that he used to compute 07:37:03 07:37:08

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the SAFs -- sorry -- yes. I have to say to compute the SAFs and ultimately the damages after applying them to the pots, at first glance the method was simply incomprehensible to me. I could not see a rationale that would justify what he did. 07:37:10 07:37:14 07:37:16 07:37:18 07:37:22 07:37:26 07:37:28 07:37:30

And so I looked into it in detail for that reason. So, first, it appeared to me that he wasn't really adjusting for demographics at all. Second, I needed to figure out what he had done. 07:37:37 07:37:39 07:37:42 07:37:44 07:37:47 07:37:49

Q. Okay. Let's look at the last sentence in bullet six. Reads, "The NMES sample, however, is not similar to the positive-claim Oklahoma Medicaid population and it is unreasonable to think that it would be similar in all other characteristics required for estimation of the Oklahoma smoking-attributable expenses." 07:37:56 07:37:58 07:37:59 07:38:01 07:38:12 07:38:12 07:38:12 07:38:12 07:38:12

Tell me what you mean by 07:38:15

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positive-claim of Oklahoma Medicaid population. 07:38:18 07:38:20

A. I believe that those are the ones that -- the records of which appear in the file -- in one of Harrison's called OKDEMOG.TXT. I have only his description to work from for that. 07:38:21 07:38:23 07:38:29 07:38:32 07:38:39 07:38:41

I attempted on Page 14 of my report to compare that -- the structure of that data set to the NMES positive Medicaid expense data set. Because in making this transition from NMES to the Oklahoma Medicaid population it's essential -- it's particularly essential for the kinds of calculations that Professor Harrison did that the structure in all relevant respects of these two data sets be similar. That's why I examined -- and that's why I made this comparison. It's a comparison that is limited because of the amount of information available in 07:38:42 07:38:46 07:38:53 07:39:00 07:39:04 07:39:09 07:39:12 07:39:15 07:39:19 07:39:19 07:39:22 07:39:27 07:39:31 07:39:34 07:39:36 07:39:39 07:39:42

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OKDEMOG.TXT. 07:39:44

Q. Can you list for me the ways in which the NMES sample which Dr. Harrison used is dissimilar to the Oklahoma Medicaid population? 07:39:48 07:39:50 07:39:52 07:39:55

A. I cannot. Because I don't have any information on the Oklahoma Medicaid population to do that with. 07:39:57 07:40:02 07:40:03 07:40:05

Q. How do you know they are dissimilar? 07:40:08 07:40:10

A. The comparison is with the data set that he used in order to combine the SAFs across age, race, sex groups. And that data set is OKDEMOG.TXT. It is possible to compare as I did dollar distributions in these two data sets for sex composition, age composition, race composition, and so on. They are different. They are quite different. That's the point I made in that last sentence in that bullet point. 07:40:11 07:40:15 07:40:18 07:40:23 07:40:27 07:40:30 07:40:34 07:40:37 07:40:42 07:40:44 07:40:46 07:40:51 07:40:53

Q. What characteristics do you think 07:40:57

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we need to know in order to do this analysis? What do we need to know about the Oklahoma Medicaid recipients? 07:40:59 07:41:03 07:41:05 07:41:07

A. You need to know every characteristic that's used in the models that Harrison constructed. 07:41:08 07:41:11 07:41:12

Q. So more than just age, gender, and race? 07:41:15 07:41:18

A. For sure. In order to see whether they are similar in all respects. But what we see here is that already in some respects they are not similar. 07:41:19 07:41:23 07:41:25 07:41:28 07:41:29

Q. And you are referring to age, gender and race? 07:41:31 07:41:32

A. That's correct. Those are the only ones I can look at here. 07:41:33 07:41:35

Q. So because the makeup of the NMES population is different regarding age, gender, and race than the Oklahoma population, you have inferred they must be different in other characteristics as well? 07:41:37 07:41:42 07:41:45 07:41:49 07:41:52 07:41:53

A. That inference isn't necessary to 07:41:55

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my point. They are already different. We see they are different in terms of age, race, sex composition. That's enough already to say that these models shouldn't be applied in this way and the SAFs shouldn't be computed in this way. 07:41:57 07:41:59 07:42:01 07:42:03 07:42:06 07:42:09 07:42:11 07:42:13

Q. Let me ask you this: If Dr. Harrison gets a SAF from the NMES database for females and there are more females in the NMES database than there are in Oklahoma, does it matter for his final outcome? 07:42:14 07:42:16 07:42:19 07:42:21 07:42:23 07:42:26

A. If you track the computations through, yes, it matters. It leads to inaccuracies in the resulting numbers computed, the ultimate damages computed. 07:42:28 07:42:30 07:42:32 07:42:35 07:42:37

Q. So it's your opinion that Dr. Harrison has not adequately adjusted for that when he weights those SAFs by using the HCFA 2282 data in Oklahoma? 07:42:38 07:42:40 07:42:42 07:42:45 07:42:51

A. In using the information in 07:42:57

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OKDEMOG.TXT which is what he gave us and which I used and which is used in his computations, basically what he is doing since that is split out by age, race, sex, he's doing a computation there that he would have done if he had the actual pots split out by age, race, sex. So he is using that as sort of a surrogate pot to compute an overall SAF for each expense category which he then applies to the undistinguished, unseparated pot, whatever the actual pot is that he uses. It's a surrogate calculation. 07:43:01 07:43:06 07:43:09 07:43:11 07:43:14 07:43:18 07:43:21 07:43:23 07:43:26 07:43:31 07:43:35 07:43:37 07:43:40 07:43:45 07:43:49 07:43:52

In other words, if the real pot were split by age, race, sex, presumably he would simply apply the NMES SAFs by age, race, sex to age, race, sex categories there. It would be in this context -- assuming we all know the difficulties -- it would be reasonable to apply those age, 07:43:53 07:43:55 07:43:57 07:43:59 07:44:04 07:44:07 07:44:09 07:44:10 07:44:21

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race, sex, category SAFs that's within the cells to corresponding cells in the pots and then add them up. He didn't do that. 07:44:21 07:44:21 07:44:21 07:44:23

He took this surrogate data set, the surrogate pots that were split up by age, race, sex, and he applied the -- this marginal SAF for females and males to the female, male totals there. 07:44:25 07:44:29 07:44:32 07:44:37 07:44:43 07:44:46

Q. All right. 07:44:48

A. He didn't do cell by cell. He worked strictly in the margins. It's clear that that calculation will produce inaccurate results. 07:44:49 07:44:52 07:44:54 07:44:55

Q. How is that clear? 07:44:58

A. I can go through and construct numerical examples to illustrate that. 07:45:00 07:45:03 07:45:06

Q. Have you done that in your report? 07:45:08

A. I have not done that in my report.

Q. Is that reported anywhere on the disks that you provided to us? 07:45:10 07:45:12

A. No, it's not. 07:45:13

Q. Well, let me ask you this question: 07:45:13

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By using the information available in the NMES database, Dr. Harrison has implicitly used the characteristics of the NMES participants. Isn't that correct? 07:45:15 07:45:17 07:45:21 07:45:24 07:45:25

A. I would say he's explicitly used them. 07:45:31 07:45:34

Q. Explicitly. Who are the participants of the NMES database? 07:45:34 07:45:39

A. My understanding is that it's a nationwide household probability sample. 07:45:41 07:45:44 07:45:47

Hold on a second? 07:45:51

MR. GRUENLOH:

Have you lost tape? 07:45:52

THE VIDEOGRAPHER:

We've got five minutes on there. 07:45:54 07:45:55

MR. GRUENLOH:

Why don't you go ahead and change it real quick? 07:45:55 07:45:56

THE VIDEOGRAPHER:

End of Tape 3 at 7 hours, 42 minutes, and 7 seconds. 07:45:59 07:46:01

(Off the record.) 07:46:59

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THE VIDEOGRAPHER:
Tape 4 at 7 hours, 43 minutes, and 10 seconds. 07:46:59 07:47:01

EXAMINATION BY MR. GRUENLOH:

Q. By using the NMES database, Dr. Harrison has explicitly used the characteristics of the NMES participants in his model, correct? I think we just went over that. 07:47:09 07:47:12 07:47:14 07:47:16 07:47:18

A. It sounds correct to me. 07:47:21

Q. All right. Who were the participants of the NMES database? Where did they come from? 07:47:23 07:47:24 07:47:27

A. As I understand it that was a nationwide household survey, probability survey. Complex design and all, but the basic units were actually dwelling units as I recall. 07:47:29 07:47:31 07:47:35 07:47:37 07:47:39 07:47:41

Q. People from the United States, correct? 07:47:42 07:47:44

A. I believe that's correct. I believe there was no -- didn't get to -- if I remember correctly it didn't go to Puerto Rico or Somalia 07:47:45 07:47:47 07:47:50 07:47:54

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or whatever. 07:48:00

Q. Is it your opinion that people in Oklahoma have lungs which react differently to cigarette smoke than the rest of the people in the United States? 07:48:00 07:48:02 07:48:05 07:48:07 07:48:08

A. I have no scientific basis for an opinion on that. 07:48:09 07:48:11

Q. Do you have any personal opinion on that? 07:48:12 07:48:14

A. Not in any informed sense. 07:48:16

Q. So you have no opinion whether people's lungs in Oklahoma react differently than the lungs of other people in the United States to cigarette smoke? 07:48:20 07:48:21 07:48:24 07:48:25 07:48:27

A. I would have no basis to offer an opinion on that. 07:48:28 07:48:30

Q. Well, how are the people in Oklahoma, the Medicaid recipients in Oklahoma, different from the rest of the people in the United States? What characteristics are different? 07:48:34 07:48:35 07:48:38 07:48:39 07:48:40 07:48:42

A. I have no basis for offering an 07:48:43

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opinion on that. 07:48:45

Q. Are they fatter? Are they more obese? Are they heavy drinkers of alcohol? 07:48:47 07:48:49 07:48:51

A. I don't have any basis for that. I have done, you know, one comparison here that apparently makes a comparison between Medicaid claimants in Oklahoma and those with positive Medicaid expenses in the NMES data set and there are certainly differences there. 07:48:52 07:48:54 07:48:57 07:48:59 07:49:02 07:49:05 07:49:07 07:49:10

Q. I understand that. But what I want you to do is look into the camera and tell the jury how are Oklahoma Medicaid recipients different from the rest of the people living in the United States. 07:49:12 07:49:13 07:49:15 07:49:17 07:49:20 07:49:21

A. I don't have any information to support such an opinion. 07:49:22 07:49:25

Q. Can you list for me how they are different? 07:49:25 07:49:28

A. Of course not. Not without any information. 07:49:28 07:49:31

Q. They could be exactly the same and 07:49:32

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you wouldn't know, would you? 07:49:34
A. That's an accurate statement. 07:49:36
Q. Let's look at the final bullet. 07:49:46
Actually the second-to-last bullet 07:49:49
on Exhibit #8. 07:49:51
"Dr. Harrison's estimate of 07:49:53
the nursing home SAF would be less 07:49:54
if it were weighted by the 07:49:56
estimated as is probability of 07:49:57
admission, in analogy to the way he 07:49:59
weighted the other estimated SAFs." 07:50:02
Have you reported somewhere in 07:50:07
your report what Dr. Harrison 07:50:08
should have done in your opinion? 07:50:10
A. I'm not sure that I have used the 07:50:13
word "should." 07:50:16
In what respect? 07:50:20
Q. You say the SAF would be less if it 07:50:21
were weighted by the estimated as 07:50:23
if probability of admission. Have 07:50:25
you done that analysis? 07:50:27
A. Yes. I have run that analysis. 07:50:28
Q. Okay. Where is that in your 07:50:30
report? 07:50:31
A. I simply referred to it -- it 07:50:32

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requires a simple modification of the program that I included to run the nursing home model. 07:50:34 07:50:48 07:50:48

Q. And what page is that on? 07:50:48

A. What page is what on? 07:50:48

Q. Where you reported that analysis in your report? 07:50:48 07:50:48

A. Pages 14 and 15. 07:50:51

Q. Okay. Can you show me where you say that the SAF would be less if it were weighted by the estimated as is probability of admission? 07:50:52 07:51:00 07:51:01 07:51:03

A. Yes. The next to last sentence on Page 15. 07:51:06 07:51:08

Q. Okay. And where have you reported this analysis? 07:51:10 07:51:16

A. Only there. 07:51:18

Q. Well, that looks like a conclusion. 07:51:20

Where have you reported the actual analysis that you did in order to reach the conclusion that the estimate of the nursing home SAF would be less if it were weighted by the estimated as is probability of admission? 07:51:25 07:51:26 07:51:28 07:51:29 07:51:31 07:51:33 07:51:35

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A. Simply a matter of running one of the programs and making what I think is an obvious programming change. 07:51:37 07:51:40 07:51:42 07:51:45

Q. Did you report the result of that running of one of the programs anywhere in your report? 07:51:46 07:51:47 07:51:49

A. I don't think I did. 07:51:50

Q. Is that anywhere -- I think it's Exhibit #4 or #5 which contains the list of programs. Is that contained on that program? 07:51:53 07:51:56 07:51:58 07:52:00

A. The program that runs the nursing home model is in there, yes. 07:52:02 07:52:04

Q. But the exact run that you did in order to determine that the estimate of nursing home SAF would be less if it were weighted by estimated as is probability of admission, is that in that list of programs? 07:52:06 07:52:07 07:52:08 07:52:10 07:52:11 07:52:12 07:52:15

A. No, that's not. 07:52:15

Q. Dr. Harrison's estimate of undiscounted damages in this case is 3.3 billion dollars as reported 07:52:45 07:52:48 07:52:50

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on his final report. Is that correct? 07:52:52 07:52:54

A. I would have to look at the report to see. 07:52:54 07:52:56

Q. I will represent to you that it is. How much should we slash off that 3.3 billion as a result of your criticisms as contained in your report? 07:52:56 07:53:00 07:53:02 07:53:04 07:53:06

A. As I think I have said several times today I have not attempted to construct a model for that purpose. 07:53:09 07:53:11 07:53:14

Q. Well, whether you constructed a model for that purpose or not let me ask you this. You have represented in the form of these bullet opinions in your report that Dr. Harrison made some pretty serious flaws in his econometric model. So taking into account for all of those serious errors and correcting them 3.3 billion should go to what? What's the right number? 07:53:17 07:53:19 07:53:21 07:53:25 07:53:28 07:53:30 07:53:32 07:53:35 07:53:38 07:53:40 07:53:43 07:53:45

A. I'm afraid that seems to me to be 07:53:45

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about the same question. I don't have any basis for supplying a number because I haven't attempted to build a model nor have I attempted to estimate damages in this case. 07:53:48 07:53:49 07:53:53 07:53:55 07:53:58 07:54:03

MR. GRUENLOH:

All right. I'm done. 07:54:14

MR. HALL:

I will ask the original be sent to Dr. LaMotte for reading and signing. 07:54:17 07:54:19 07:54:20

THE VIDEOGRAPHER:

End of deposition at 7 hours, 50 minutes, and 34 seconds. 07:54:25 07:54:26 07:54:28

(Conclusion.)

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WITNESS' CERTIFICATE

I have read or have had the foregoing testimony read to me and hereby certify that it is a true and correct transcription of my testimony, with the exception of any attached corrections or changes.

_____

LYNN ROY LAMOTTE

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REPORTER'S CERTIFICATE

I, LINDY ROOT, Certified Court Reporter, do hereby certify that the above-named witness, after having been first duly sworn by me to testify to the truth, did testify as hereinabove set forth;

That the testimony was reported by me in shorthand and transcribed under my personal direction and supervision, and is a true and correct transcript, to the best of my ability and understanding;

That I am not of counsel, not related to counsel or the parties hereto, and not in any way interested in the outcome of this matter.

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